



THE
Fifty-eighth
TEXAS LEGISLATURE
A Review of Its Work



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PUBLIC AFFAIRS SERIES NUMBER 55

*The Fifty-eighth
Texas Legislature*

A REVIEW OF ITS WORK



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Foreword

In a day when national developments and international crises seem to dominate the public affairs scene, the importance and significance of state and local governments are frequently overlooked or taken for granted. The fact is, however, that the states and their political subdivisions are growing—both in numbers of personnel employed and dollars spent—at a faster rate than the national government in recent years, and this growth has produced an increasing number of serious problems and decisions for state legislative bodies. Texas is no exception.

To meet the need for a brief and accurate statement of this legislative action, the Institute of Public Affairs has published a summary upon the conclusion of each regular legislative session for the past decade. This volume is the sixth in the series and covers the regular session of the Fifty-Eighth Legislature, which met from January 8 to May 24, 1963. In line with the methodology and pattern of previous summaries, this one includes the major laws passed by the Legislature, the most significant pieces of legislation considered but not passed, proposed constitutional amendments, and interim studies authorized by the Legislature. Space permits only brief mention of each piece of legislation having general state-wide interest, and many details must necessarily be omitted. Our objective throughout has been to analyze the legislative product from an objective point of view and not to express approval or disapproval of laws passed or defeated. Neither this Institute nor The University takes any position on the bills discussed herein.

The preparation of this summary was the combined responsibility of several members of the Institute research staff. Messrs. Lynn F. Anderson, James Howard, Bill Henry, Shelby Sharpe, and Miss Charledean Newell each prepared manuscripts on particular sections of the study. Thereafter, their respective contributions were merged and each reviewed the entire manuscript.

In completing this study, we have had assistance from two persons outside of our staff whom we should like to recognize. Mr. James R.

Sanders, Director of Legislative Reference, Texas State Library, provided statistical and other data which were necessary for the summary and also read a copy of the final manuscript. We are appreciative of his prompt cooperation and contributions which have resulted in an improved study. Our thanks and appreciation also go to Mr. Walter E. Long of the Texas Legislative Service, Austin, who provided timely information to our staff on various legislative enactments.

STUART A. MACCORKLE
Director

Austin, Texas
November, 1963

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THE FIFTY-EIGHTH TEXAS LEGISLATURE:

A REVIEW OF ITS WORK

Introduction

THE FIFTY-EIGHTH TEXAS LEGISLATURE convened on January 8, 1963, and completed a busy session on May 24, 1963. Upon their arrival in Austin, the legislators were challenged by the Governor's presentation of a very ambitious and comprehensive legislative program. The Legislature responded to the challenge with the introduction of 1,088 House Bills, 525 Senate Bills, and a total of 110 House and Senate Joint Resolutions. A total of 537 bills (332 House Bills and 205 Senate Bills) were passed by the Legislature, and 525 of these were approved by the Governor to become a part of the statute books.¹ Seven of the joint resolutions were adopted by the Legislature and will be referred to the electorate as proposed constitutional amendments. A summary of all bills and resolutions introduced and adopted is presented in Table I.

TABLE I
SUMMARY OF BILLS AND RESOLUTIONS INTRODUCED AND
ADOPTED, FIFTY-EIGHTH LEGISLATURE OF TEXAS

	Introduced	Adopted*
House Bills (H.B.)	1,088	332
House Concurrent Resolutions (H.C.R.)	128	55
House Joint Resolutions (H.J.R.)	80	1
House Simple Resolutions (H.S.R.)	593	571
Senate Bills (S.B.)	525	205
Senate Concurrent Resolutions (S.C.R.)	103	82
Senate Joint Resolutions (S.J.R.)	30	6
Senate Simple Resolutions (S.R.)	631	627

* Includes those vetoed by the Governor.

¹ The Governor vetoed eleven bills, in addition to his item vetoes in the appropriation bill, and one bill (S.B. 519) was not delivered to the Governor for signature.

The Fifty-eighth was popularly termed a "hard-working" legislature, and this characterization is supported by the fact that, at its conclusion, the Governor indicated that he foresaw no immediate need for a special session for this biennium. If the necessity of a special session was avoided, it will be the first time since the Fifty-fourth Legislature that the legislative task was entirely accomplished in the regular session.

In addition to providing increased appropriations for essential state services, the regular session produced significant developments in the acquisition of state revenue. A major revision of the state sales tax increases its coverage and revenue potential, but another bill provided for the automatic termination of the increased rate of the franchise tax. The appropriations bill was adopted late in the session and was the subject of an unusual line-item veto by the Governor. As a result of this veto, a number of specific appropriations amounting to a total of \$12.4 million were stricken from the bill for the purpose of preserving additional funds to be used for the furtherance of higher education in the state. Another major item of legislation passed late in the session was vetoed by the Governor under unique circumstances. The newly adopted Code of Criminal Procedure was vetoed because the copy received by the Governor was found to differ from the text of the bill passed by the Legislature.

There was significant legislation adopted in a number of fields. In the field of financial institutions, the Banking Code was extensively revised, savings and loan regulations were codified, and the small loan industry was regulated through the popularly denominated "loan shark" bill. The Insurance Code was the subject of extensive amendment, including the addition of non-forfeiture provisions for life insurance and the regulation of credit life, health, and accident insurance companies. A number of operational freedoms were granted insurance companies by other legislation, including the repeal of the Robertson Act. The minimums under the Safety Responsibility Act for motorists were raised to 10/20/5, and this increase will have the effect of raising liability insurance coverage and premiums. Motorists will also be interested to note that the permissible maximum speed limits on major highways may now be raised to 70 miles per hour by the Highway Department. The tourist was the subject of interest in the establishment of the Tourist Development Agency and may have been one factor in the combination and reorganization of the Game and Fish Commission

and the State Parks Board. Higher education received attention from both the Legislature and the Governor which resulted in the creation of the Governor's Commission on Higher Education and was a major consideration in the item veto of the appropriations bill. The Election Code was extensively revised, and a constitutional amendment providing for the repeal of the poll tax will be presented to the voters. The new annexation bill will be of considerable consequence in defining the power of Texas cities to annex or control land adjacent to their boundaries.

The legislation considered by this session of the Legislature could not be characterized as lacking in impact or controversy; however, a considerable number of the Governor's proposals were enacted, and there was little delay or stalemate evident in the work of either house. Though the Governor vetoed a portion of the appropriations bill, he indicated that he foresaw no immediate need for further sessions and demonstrated approval of the results of the legislative effort.

Bills and Resolutions Enacted

APPROPRIATIONS

One of the most important responsibilities of any legislature is the appropriation of public funds for the support and maintenance of state programs and services. The Fifty-eighth Legislature, like all of its recent predecessors, found itself faced with increased budget recommendations to meet the needs of a growing state government, and it responded by the enactment of a record-size biennial appropriation bill. The appropriation bill as passed by the Legislature required the imposition of \$32 million in new tax revenue, an amount quite modest in comparison with the tax bills of the Fifty-sixth and Fifty-seventh Legislatures, but with this additional revenue the state is expected to operate in the black during the 1963-65 biennium. Subsequent to adjournment of the regular session, the Governor vetoed a number of items which in the aggregate amounted to \$12.4 million for the biennium. Thus, if revenue estimates hold and a special session is not called to make further appropriations, the state's total financial operations will not only be balanced but will actually produce a surplus of \$12.4 million—the amount of vetoed funds.

The general appropriation bill as passed by the Fifty-eighth Legislature (H.B. 36)² authorized the expenditure of \$3,142,616,833 during the biennial period from September 1, 1963 to August 31, 1965. After deduction of the \$12,436,074 vetoed by the Governor, the final appropriation for the biennium amounted to \$3,130,180,759. Of this amount, \$1,553,269,921 was appropriated for the 1963-64 fiscal year and \$1,576,910,838 for the 1964-65 fiscal year. A detailed breakdown of these appropriations, on the basis of functional articles used in the bill, is given below in Tables II and III.

TABLE II
SUMMARY OF APPROPRIATIONS AND ITEM VETOES
STATE OF TEXAS
1963-65 Biennium

Functions/Agencies	Original Appropriations	Amounts Vetoed	Final Appropriation
Judiciary	\$ 10,145,945	\$ 42,888	\$ 10,103,057
Hospitals and Special Schools	124,228,164	5,000,500	119,227,664
Executive, Legislative, and Administrative Depart- ments and Agencies	1,570,300,386	6,430,250	1,563,870,136
Education	1,433,456,296	962,436	1,432,493,860
Legislature	4,486,042	4,486,042
Totals	\$3,142,616,833	\$12,436,074	\$3,130,180,759

As indicated in Table II, the items vetoed by Governor Connally were spread throughout all sections of the general appropriation bill except that section applicable to the Legislature itself. The vetoes resulted from the Governor's dissatisfaction with the Legislature's appropriations for higher education, especially those for teaching salaries, research, and libraries at the twenty state-supported colleges and universities. In contrast to the \$130.4 million which the Governor had recommended to the Legislature in his budget message for higher edu-

² The following abbreviations are used throughout this summary: H.B. for House Bill; S.B. for Senate Bill; H.J.R. for House Joint Resolution; H.C.R. for House Concurrent Resolution; H.S.R. for House Simple Resolution; and S.R. for Senate Resolution.

cation, the Joint Conference Committee Report on Appropriations recommended \$117.2 million in the final appropriations bill. It was the Governor's feeling that higher education had been shortchanged by the difference in these two amounts, or \$13.2 million, and he used his item veto power to remedy the situation as far as he could without curtailing essential expenditures. A related element in the Governor's decision to veto certain items was the fact that the Joint Conference Committee added a number of items, principally buildings and other capital outlays, which were not in the original versions of the House and Senate appropriation bills and which had not been recommended either in the budget recommendations of the Legislative Budget Board or by the Governor. In his veto message, the Governor was vigorous in his defense of excellence in higher education, and he indicated that he would not hesitate to call a special session to provide additional appropriations for higher education during the current biennium if they were clearly needed.

It should be pointed out that the items vetoed by the Governor were primarily for capital outlays and will not hamper existing state operations. For example, all of the \$5 million vetoed from the appropriation for hospitals and special schools was represented by a major addition to the Lufkin State School, a replacement for the present Confederate Home for Men, and a number of maintenance shops, warehouses, and staff residences at several of the hospitals and special schools. The principal items vetoed from the appropriation for Administrative, Legislative, and Executive Departments and Agencies were: \$3.6 million for a new state finance building; \$200,000 for airport facilities; \$300,000 for screwworm eradication; \$1 million for claims against the state provided for in another bill; \$292,200 for prison system improvements; \$598,050 for park improvements; \$300,000 for construction in state parks of roads comparable to farm-to-market highways; and \$250,000 for the Office of Regulatory Loan Commissioner (Small Loans) which was not required since the office is self-financed from examination fees. The vetoed amounts in the Education section of the appropriations act applied entirely to institutions of higher education and consisted of expenditures earmarked for museums and various repairs and capital items such as street paving, auditorium draperies, air conditioning, and sidewalks.

The total biennial appropriations, after vetoes, of \$3.13 billion represented a 20.6 per cent increase over the appropriations voted by the

TABLE III
ALL FUNDS APPROPRIATIONS*
STATE OF TEXAS
Fiscal Years 1963-64 and 1964-65

Functions/Agencies	1963-64	1964-65
Judiciary	\$ 5,052,347	\$ 5,050,710
Hospitals and Special Schools	59,806,159	59,421,505
Executive, Legislative, and Administrative Departments and Agencies	780,396,792	783,473,344
Education	706,492,802	726,001,058
Legislature	1,521,821	2,964,221
Annual Totals	<u>\$1,553,269,921</u>	<u>\$1,576,910,838</u>
Biennial Total		<u>\$3,130,180,759</u>

* The amount shown in this table are net after deduction of items vetoed by the Governor.

Fifty-seventh Legislature for the 1961-63 biennium. Since no change was made in the fund structure through which state operations are financed and accounted for, the time-honored practice of financing a relatively small portion of total appropriations through the General Revenue Fund continues in effect. As indicated in Table IV, only \$470.4 million—or 15.2 per cent of total appropriations for the 1963-65 biennium—of state expenditures are financed by the General Revenue Fund. The remainder is financed by a large number of special funds supported by earmarked taxes, federal grants, and priority allocations of certain state revenues by statutory prescription. Only two sections of the biennial appropriation act are financed exclusively from the General Revenue Fund—the judiciary and the legislature. Except for the comparatively small amount of \$170,000 from other funds in 1963-65, the same is true of appropriations for hospitals and special schools. Article III agencies—Executive, Legislative, and Administrative Departments and Agencies³—are financed to a minor extent from the General Revenue Fund; for example, in the 1963-65 biennium

³ The term "Legislative" appears in this appropriation category because this section of the bill includes appropriations for such full-time legislative agencies as the Legislative Council and the State Auditor. Formerly, the Legislative Budget Board was included in this section, but in the 1963-65 biennium its appropriations are included in Article V—The Legislature.

TABLE IV
GENERAL REVENUE FUND APPROPRIATIONS*
STATE OF TEXAS

Fiscal Years 1963-64 and 1964-65

Functions/Agencies	1963-64	1964-65
Judiciary	\$ 5,052,347	\$ 5,050,710
Hospitals and Special Schools	59,646,159	59,411,505
Executive, Legislative, and Administrative Departments and Agencies	51,165,875	48,381,354
Education	118,974,365	118,235,585
Legislature	1,521,821	2,964,221
Annual Totals	\$236,360,567	\$234,043,875
Biennial Total		\$470,404,442

* The amounts shown in this table are net after deduction of items vetoed by the Governor.

other funds will provide fifteen times as much of their total appropriations as the General Revenue Fund. In the case of appropriations for "Education," a large portion of the funds shown in Tables II, III, and IV are for the support of the state-wide system of secondary and elementary education and are derived from the Available School and Foundation School Funds. Most of the appropriations from the General Revenue Fund in the Education section of the appropriation act are those for higher education.

In line with other recent Texas legislatures, the Fifty-eighth Legislature provided increased financial resources for existing state functions and programs, and, in addition, enacted several significant new appropriations for programs which it considered vital to the state's progress. Appropriations for the state judicial system were increased by 6 per cent to finance new Courts of Civil Appeals at Tyler and Corpus Christi and to finance increased state costs for district judges, district attorneys, county judicial officers, witness fees, and related court operations. The over-all increase in appropriations for state hospitals and special schools was 7.4 per cent, but this was the composite result of a number of individual decreases and increases within the system. The building program for state hospitals and special schools was decreased from that in the preceding biennium, and appropriations for tuberculosis

hospitals was also decreased—a reflection of the long-term decline in incidence of this disease. Units of the system which received substantial percentage increases over the previous biennial appropriation level included the following: the Central Office of the system (33.4 per cent); all mental hospitals and geriatric homes (8.4 per cent); schools for the mentally retarded (19.7 per cent); the Psychiatric Institute for Research and Training (30 per cent); the Youth Council Central Office (148.6 per cent); and correctional schools (30.8 per cent). Two new and significant appropriations were made: (1) \$546,000 for contractual arrangements with local community hospitals for the treatment of patients and students for whom the Board of Hospitals and Special Schools is responsible; and (2) \$300,000 for professional training programs designed to improve care and treatment of patients or students.

The over-all increase of \$190.6 million in 1963–65 appropriations over 1961–63 appropriations for Executive, Legislative, and Administrative Agencies represented a 13.8 per cent boost in funds. However, \$170.3 million of this increase is represented by increased federal outlays for three state agencies—the State Highway Department, the Department of Public Welfare, and the Texas Employment Commission—so that the increase from state funds is relatively small in amount. Even so, increases to be financed from the General Revenue Fund for these agencies in 1963–65 is up \$12.6 million, or 14.6 per cent, over the appropriation level for the 1961–63 period. With only a few minor exceptions, the individual agency appropriations were increased to provide for an additional volume of operations and to provide funds for salary increases and other higher operating costs. Indicative of the legislature's concern for increasing salaries of state administrative personnel were revisions made in the classification salary schedule. The maximum salary in the highest salary group was raised from \$11,192 to \$12,000 per annum, and increases of similar magnitude were made for a number of lower salary groups. Major increases relative to the level of appropriations in the preceding biennium were made to five agencies: the Commission on Alcoholism, primarily for rehabilitation of alcoholics in the state hospital and prison systems; the Animal Health Commission for its screwworm eradication program; the Industrial Commission for a stepped-up program of industrial promotion; the Board of Pardons and Paroles for increased parole officers and parole supervision; and the Pecos River Compact Commission.

Initial appropriations were provided for three new agencies: (1) \$5,000 to the Committee on Sociopathic Personalities; (2) \$5,000 to the Runnels County Water Authority; and (3) \$292,292 to the Tourist Development Agency. In addition, an initial appropriation of \$9,572 was made to the Water Pollution Control Agency, which was created by the Legislature in 1961 but not given any appropriation at that time.

Insofar as appropriations of state-originated funds are concerned, by far the largest increases in the 1963-65 biennial appropriation bill were in the field of education. The over-all increase for all segments of education—public education (secondary and elementary), junior colleges, and senior colleges and universities—amounted to \$335.5 million from all sources, or 30.6 per cent above 1961-63 appropriations. Appropriations from the General Revenue Fund for education were increased by \$50.7 million, or 27.2 per cent. In the area of public secondary and elementary education, appropriations from the Foundation School Fund were estimated to increase from \$335.9 to \$554.1 million, or 65 per cent over the 1961-63 level. This is the principal fund from which equalization grants are made to local school districts for support of the state's minimum foundation school program. Appropriations for vocational rehabilitation and vocational education, both heavily subsidized by federal grants, were increased by 64.1 and 201 per cent, respectively. In the field of vocational education, a new appropriation was made for new programs of this type in junior colleges, in addition to those already existing in secondary schools.

The State of Texas for many years has supported locally organized and operated junior colleges through a system of grants tied to the number of full-time equivalent students in each institution. The 1963-65 appropriation for this purpose was increased from \$13.7 to \$16.5 million to finance expected enrollment increases and to permit payment of a higher per capita grant.⁴ The state payment for each full-time equivalent student was increased from \$350 to \$375 for the first 350 students and from \$250 to \$285 for each student in excess of 350.

To finance the state's twenty senior colleges and universities and

⁴ It should be pointed out that the relative increase is greater than these totals indicate because a part of the University of Houston was included in junior college appropriations for the 1961-63 biennium but not for the 1963-65 biennium. On September 1, 1963, the University of Houston became a fully-state-supported institution.

their coordinating body, the Commission on Higher Education, the Legislature appropriated a total of \$319.2 million for the 1963-65 biennium from all sources. This represented a 27.8 per cent increase over the level of 1961-63 appropriations. The General Revenue Fund appropriations for higher education were increased from \$161.2 to \$212.4 million on a biennial basis, or by 31.9 per cent. These increases were designed to provide for increased student enrollments expected at all of the institutions and to provide for salary increases and other higher operating costs. In addition to these larger appropriations for the existing institutions, the Legislature appropriated a total of \$18.7 million to finance the University of Houston, which became a part of the state's system of higher education on September 1, 1963. Of this appropriation of \$18.7 million, \$15.2 million will be financed by the General Revenue Fund and \$3.5 million will be derived from other sources. A second new item in higher education was \$125,000 appropriated to the Governor's Committee on Education Beyond the High School, an interim study group appointed by the Governor to chart the needs of higher education in Texas for the next decade.

In an effort to maximize the utility of available financial resources on a uniform basis among the state's institutions of higher learning, the budget requests and appropriations for these institutions in recent years have been based on formulas and rates derived and approved by the Commission on Higher Education. From time to time, these rates have been increased to provide for higher teaching salaries and other operating expenses of the colleges and universities. In this connection, it is appropriate to note that the dollar rates per semester credit hour which were used to compute appropriations for teaching salaries for 1963-65 were increased over those used in the 1961-63 biennium. These rates are broken down by instructional fields (liberal arts, science, law, etc.) into seventeen categories, and for each field separate rates are computed for undergraduate credit hours, graduate hours at the master's level, and graduate hours at the doctoral level. The complete schedule of rates is too long and detailed to be reproduced here; however, some idea of the magnitude of the rates and the increase for the 1963-65 period can be gained by noting the rates for two instructional fields. The lowest credit hour rate for undergraduate work is in the fields of vocational training and physical training. It was increased from \$10.83 to \$11.50 per semester credit hour. The highest rate in

the schedule, applicable to doctoral work in science and engineering, was increased from \$102.87 to \$109.25 per semester hour.

In addition to the omnibus appropriation act which provides funds for each ensuing biennium, Texas legislatures usually find it necessary to pass several minor appropriation bills in each regular session to meet emergency and special situations. The Fifty-eighth Legislature passed four bills of this type. H.B. 150 provided supplemental appropriations out of the General Revenue Fund as follows: \$82,000 to the Attorney General's Office; \$65,000 for the Governor's Office; and \$50,000 to the Governor "for a study of higher education needs of the State of Texas." S.B. 456 transferred a small appropriation within the budget of the Texas Liquor Control Board, and H.B. 804 made an appropriation for the payment of claims for payments on state taxes declared unconstitutional, overpayments of various taxes, court judgments, and various small claims against the state. Finally, H.B. 1087, passed the day prior to adjournment, appropriated \$160,000 to clear up the Fifty-eighth Legislature's own expenses which had not previously been provided for.

TAXATION AND FINANCIAL ADMINISTRATION

In contrast to the two preceding Legislatures which faced severe financial crises and enacted substantial tax increases, the Fifty-eighth Legislature faced moderate demands for new revenue, and these demands were met by a single tax bill (H.B. 106), which became effective on July 1, 1963, and which is estimated to produce \$32.9 million in new revenue during the 1963-65 biennium. A large part of this additional revenue, \$15.4 million, will be derived from modifications in the limited sales and use tax, principally the repeal of the exemption of outer clothing costing less than \$10. Of the remaining new revenue, \$11.1 million will come from a one-year extension of the 22.22 per cent additional corporate franchise tax and \$6.4 million from an increase in the rate of motor vehicle sales tax from 1.5 to 2 per cent. In addition to the latter rate increase, H.B. 106 changed the base of the motor vehicle sales tax from the total purchase price of a new vehicle to the difference between the total purchase price of the new vehicle and the trade-in value of an exchanged vehicle.

Sales Tax Revision. Aside from its revenue-raising features, H.B.

106 is significant because a number of modifications were made in the base and administration of this tax. These changes were recommended to the Legislature by the Commission on State and Local Tax Policy and were based on the commission's study of experience since the original enactment of this tax in 1961. As noted above, the principal change was enlargement of the tax base by repeal of the 1961 exemption of outer clothing costing less than \$10. This exemption had produced administrative and enforcement problems, and there was widespread interest in its elimination. Another increase in the tax base resulted from the provision making all food sales by restaurants taxable. Under the original law, take-out orders were not taxed. Several new exemptions which are comparatively small in scope were added by H.B. 106, and a few existing exemptions were modified and somewhat extended. New exemptions include all meals served in churches; insulin; farm work animals; feed bought for farm and ranch work animals; herbicides, defoliants, and desiccants; vending machine sales of 25 cents or less; and sales and transfers of property where a substantial change in ownership has not taken place. The exemption of occasional sales was expanded to include the sale of an entire business or identifiable segment thereof. The existing exemption of meals served in elementary and secondary schools and meals served to patients and inmates of hospitals and other licensed institutions was extended to include soft drinks and candy, and the original exemption of religious writings was enlarged to include certain religious periodicals not previously exempt. All fertilizers were exempted, as opposed to those used only in the production of food for human consumption which the 1961 law had exempted.

A number of substantive and technical changes in H.B. 106 were designed to simplify and improve administration and enforcement of the sales tax. Under the new law, retailers who can establish to the satisfaction of the Comptroller that 50 per cent or more of their receipts from the sale of tangible personal property arise from individual transactions of 24 cents or less may exclude such sales when reporting and paying the tax to the State Comptroller. Otherwise, retailers must pay 2 per cent of their total receipts of taxable sales. Grocery stores, which faced difficult problems because they handle many taxable items along with food products which are exempt, were provided with simplified methods of reporting and paying their sales tax liability to the state. Grocery stores whose annual sales are \$100,000 or less are

now given the alternative of paying their sales tax on the simple basis that 15 per cent of their total receipts are taxable sales. The third and final group of taxpayers for whom simplified payment procedures were provided are large businesses which purchase more than \$200,000 of tangible personal property each year. Such businesses are allowed to make payment on a quarterly basis directly to the Comptroller in lieu of paying the tax on each individual purchase from their suppliers.

An important provision of H.B. 106 allows the Comptroller to require retailers to post a cash deposit, bond, or other security as a guarantee of tax payment. Several sections of the law clarify and make more specific the exemptions for natural gas, component parts, and gas and electricity used for business and industrial purposes. Among the more technical amendments, the sale for resale was redefined to include parts incorporated into tangible personal property that is subsequently resold at retail. The section of the original sales tax law which imposed the tax was rewritten to make clear that the tax is imposed on total receipts of a retailer. The bracket system of collection from consumers was retained, but clarified to make certain that the tax is computed on the total price when several items are purchased together at the same time. Improper use of a resale certificate to avoid the sales tax is made a misdemeanor subject to the same penalty that previously applied under the use tax section of the original law, and giving of a false exemption certificate is also made a misdemeanor punishable as provided in the law. In the use tax section of the sales tax act, the phrase "retailer maintaining a place of business in this state" was changed to "retailer engaged in business in this state" as a means of strengthening enforcement of the use tax to be collected by businesses located outside of Texas.

A final change in the state sales tax law has to do with distribution of sales tax proceeds. Under the 1961 statute, all sales tax revenue was placed in the General Revenue Fund. H.B. 106 amends this procedural provision to provide that the proceeds from the sales tax on lubricating oil and motor oil used in motor vehicles traveling over the public roads is to be placed in the State Highway Fund rather than the General Revenue Fund.

Other Legislation. In addition to the major tax legislation in H.B. 106, several additional laws affecting state and local taxation and financial administration were enacted. One of the more significant of these was H.B. 80, which reduced the rate of the state severance tax

on sulphur from \$1.40 to \$1.03 per long ton. The purpose of this change was to make the Texas tax on sulphur equal to and competitive with the rate levied by Louisiana. The revenue loss from this reduction will be on the order of \$900,000 a year. H.B. 16, of a similar purpose, placed state banks on the same status as national banks insofar as state taxation is concerned. Under this law, state banks are relieved of paying state sales and corporate franchise taxes which they heretofore have paid but which cannot be imposed on national banks under existing law. It is estimated that this law will result in an annual tax saving of approximately \$1 million to Texas state banks.

As a companion measure to repeal of the penal code provisions which had outlawed pool halls for many years, H.B. 39 imposes an annual tax of \$5 per billiard table on persons and firms operating such tables on a commercial basis. Religious, charitable, or educational organizations which operate billiard tables are exempted from the tax, and cities and towns are authorized to levy an identical tax at one-half of the state rate.

Under H.B. 57, the exemption from state inheritance taxes was extended to include property passing to religious, educational, and charitable organizations organized and operating in other states which grant a reciprocal exemption to comparable Texas-organized and -operated organizations. Previously, this exemption from the Texas inheritance tax applied only to those bequests to religious, educational, and charitable organizations which were to be used exclusively in Texas or in a five-state region including Texas.

Another tax law, S.B. 436, was also related to the inheritance tax. It excludes from the Texas inheritance tax the deposits in Texas banks and share accounts in Texas savings and loan associations which are owned by citizens of a foreign country who are non-residents of Texas and are not engaged in business in Texas or which are owned by non-resident citizens of the United States who reside in a foreign country and who are not engaged in business in Texas.

Under H.B. 760, property consigned to a consignee in Texas but to be forwarded to a point outside the state is considered to be in interstate commerce and not subject to taxation if it is not detained for more than 90 days. Where the goods moving in interstate commerce are held for assembly, storage, manufacturing, processing, or fabricating purposes, the exemption period is extended to nine months.

Two laws pertained to the state chain store tax. S.B. 380 increased

the number of businesses which do not have to pay the exemption fee under the chain store tax. In addition to religious bookstores previously exempt, S.B. 380 added the following: (1) Non-profit religious or charitable stores or mercantile establishments owned and operated by religious or charitable organizations; (2) places of business used by manufacturers, manufacturer's representatives, wholesalers or jobbers solely as display rooms; and (3) sellers of agricultural products in municipally owned or operated produce markets. H.B. 737 exempts from the chain store tax warehouses operated by common carrier or carriers holding permits from the Texas Railroad Commission to sell only freight salvage and goods on which storage costs are in default.

Three laws passed by the Fifty-eighth Legislature relate to property taxation. H.B. 733 extends all property tax liens and remedies presently available to the state, county, and cities to school districts and other municipal corporations. The purpose of this statutory amendment of Article 1060a of the Revised Civil Statutes was to give school districts a lien on personal property taxes which other taxing jurisdictions have had for many years. A related bill, S.B. 219, confers all legal powers relative to assessment and collection of property taxes on a municipality or district which assesses and collects property taxes for another overlapping governmental unit. Thus, if an independent school district has an overlapping municipal government to administer its property taxes, it may use any applicable provision of that city's charter in the assessment and collection of its property taxes. The third act in this group, H.B. 909, amends and clarifies existing law to authorize Boards of Equalization to employ experts in assessment and tax work and to pay for their services out of existing funds or to issue time warrants against the General Fund. If time warrants are used, they must mature within six years.

S.B. 300 provides for the measurement of crude oil production for severance tax purposes by meters or other measuring devices in addition to the tank tables previously authorized.

H.B. 615 amended the motor vehicle registration law to provide that owners of truck tractors, semitrailers, or low-boy trailers used exclusively for transporting soil conservation machinery may register one truck or truck tractor and one semitrailer or low-boy trailer and pay a license fee equal to 50 per cent of the fee otherwise required on such vehicles.

Only one law pertaining to revision of the state's fund structure was enacted. This bill, S.B. 302, created a new fund, the Railroad Commission Operating Fund, as a replacement for the following four funds: Motor Carrier Fund; Oil and Gas Enforcement Fund; Gas Utilities Fund; and Liquefied Petroleum Gas Fund. Amounts on deposit in the latter funds, as well as future revenues accruing to such funds, are to be placed in the Railroad Commission Operating Fund, where separate revenue accounts are to be maintained for each. The effective date of this change was September 1, 1963.

As a conclusion to this section pertaining to state finance, it should be noted that the Texas Commission on State and Local Tax Policy was continued for an additional two years under S.C.R. 82. This nine-member commission was created in 1959 for a four-year period, and it terminated under the terms of its original authorization on January 1, 1963. It should also be pointed out that, contrary to some popular misconception, the state poll tax is not repealed by the proposed constitutional amendment (S.J.R. 1) which abolishes the poll tax as a prerequisite for voting. The poll tax will continue to be in effect until such time as the legislature specifically abolishes it, although it is quite certain that this tax will be paid by few citizens should S.J.R. 1 be approved by the voters.

STATE ADMINISTRATION

The establishment of the Parks and Wildlife Department by H.B. 21 was one of the most significant pieces of legislation affecting state administration. The bill provided for a reduction in the membership of the Game and Fish Commission to three and a change of the commission's name to the Parks and Wildlife Department. An important feature of the bill was the abolition of the State Parks Board and the transferring of its functions to the new department. It is anticipated that this consolidation will provide improved administration in these areas because both the State Parks Board and the Game and Fish Commission dealt with related activities.

One bill of particular interest was H.B. 11. This bill established the Texas Tourist Development Agency to facilitate the promotion and advertisement of tourist attractions in this state, to develop the attractions that are in Texas, and to promote good public relations with people outside the state. Along with the passage of S.B. 6, which made

Padre Island a National Seashore Park, this bill should help the tourist industry to some degree.

The benefits and coverage of the retirement system for state officers and employees were expanded by H.B. 902. Elective state officials, including members of the Texas Legislature, are now eligible for membership in the system. Participation for elective officeholders is discretionary for those holding office at the time of the act, but is mandatory for those assuming office after the effective date of the act. Elective officeholder members with a minimum of eight years of service are eligible to receive \$100 per month at the retirement age of sixty. Benefits are to be increased by \$10 per month for each year of service beyond ten years. Elective officials of districts or counties are not eligible for membership in the system.

The benefit rate schedule for nonelective employees was amended as follows:

<i>Service Period</i>	<i>Old Rate</i>	<i>New Rate</i>
First 10 years of service	0.75% per year	1.00% per year
Second 10 years of service	1.25% per year	1.25% per year
Third 10 years of service	1.50% per year	1.50% per year
Fourth 10 years of service	1.75% per year	1.75% per year

Existing service retirement annuities computed under the previously effective 1958 schedule and annuities to be awarded from the date of the act until September 1, 1968, are to be increased by 5 per cent. In order to offset a portion of the increase in benefits, members will now contribute 5 per cent of their annual compensation to finance the system rather than the previously effective $4\frac{1}{2}$ per cent.

H.B. 572, amending the occupational disability benefits of the retirement system, provides that an employee upon retirement for an occupational disability shall now receive a retirement allowance computed at $1\frac{1}{4}$ per cent multiplied by the monthly rate of compensation being paid to him at the time of the disabling injury or disease, provided that this allowance does not fall below 25 per cent nor exceed 50 per cent of the monthly rate of compensation. Formerly, the member received benefits computed at 60 per cent of his last monthly compensation rate. All retirement payments or benefits accruing to any person under this act now shall be exempt from any state, county, or local tax levy and sale, garnishment, or attachment.

Two bills were passed in this session that directly affect the Attor-

ney General's Office. The first was S.B. 318, which removed the Attorney General from fourteen boards of which he was an ex officio member. These boards are: the Board for Lease of Eleemosynary and State Memorial Lands; the Board for Lease of Lands Owned by State Agencies; the Board for Lease of Texas Prison Lands; the Board for Lease of State Park Lands; the School Land Board; the Board to Sell Judgments Which Cannot Be Collected; the State Depository Board; the State Tax Board; the Executive Committee of the Texas Traffic Safety Council; the State Board of Trustees of the Employees' Retirement System of Texas; the State Banking Board; the State Board of Canvassers; the Council to Expend Certain License Fees and Hunting Boat Registration Fees and Certain Fines; and the Study Committee to Study the Development of Certain Texas Beaches. The second was H.B. 476, which prohibits the Attorney General from accepting or using money from any private source for the purpose of investigating or prosecuting any matter. The latter bill represented the Legislature's reaction to the acceptance of private funds by a previous Attorney General to prosecute illegally slanted oil wells in the state.

There were three other bills passed in this session which affect state employees in general, in addition to the retirement-system bills. H.B. 487 provides that the salaries of all state employees and officers except certain members of the judiciary shall be regulated by the legislature through the General Appropriations Act. H.B. 395 provides that no person shall be denied the right to work for any agency of the state or any of its political subdivisions because of age if that individual is between the ages of 21 and 65. With the passage of S.B. 264, state departments are no longer required to be open on Saturday mornings.

Of general interest is H.B. 565, which provides for temporary interim succession to state and local public offices in a period of emergency caused by attack upon the United States. This bill does not apply to the Governor, the judiciary, or members of the legislature. In S.B. 515 the Legislature provided that the Board of Control would assume management and control of all state buildings and their sites upon completion of construction by the State Building Commission. This Legislature also transferred the control of the Texas Blind, Deaf and Orphan School, its land, funds and property to the Board for Texas State Hospitals and Special Schools (S.B. 151). And finally, the four-year residence requirement to be an employee of the State Department of Public Welfare was abolished by H.B. 289.

REGULATION OF BUSINESS AND PROFESSIONS

Business. There was considerable legislative activity in the field of business licensing and registration. H.B. 854 establishes licensing requirements and regulations for handlers, dealers, buying and transporting agents, packers, commission merchants, contract dealers, and producers of vegetables as those terms are defined in the act. The bill also calls for a bond to be posted with the state by commission merchants with the amount to vary from \$5,000 to \$25,000, based on the amount of purchases. The act stands in addition to other legislation affecting this field but provides for reciprocity in certain areas with existing legislation. The administration and enforcement of the act is to be by the Commissioner of Agriculture. H.B. 567 enacts very similar regulation of the citrus fruit trade and is also to be administered by the Commissioner of Agriculture. S.B. 105 amended the licensing legislation for fireworks retailers by requiring that the annual license fee be paid on or before the first day of February each year. S.B. 421 requires that issuers or sellers of checks or money orders for consideration be licensed and bonded with the Commissioner of the State Banking Department. Financial institutions authorized to engage in this activity, agents of authorized sellers, and telegraph companies transmitting money by telegraph are exempt from the licensing requirements of the act. H.B. 782 amends the Texas Liquor Control Act by adding and defining the powers of the holders of a United States Bonded Liquor Export Permit.

S.B. 85, in addition to certain professional licensing provisions, requires the annual licensing of funeral establishments with the State Board of Morticians. The act prescribes some minimum facilities that are prerequisite for the granting of a license. Licenses expire on August 31 each year, and fees will be no more than \$25 for existing establishments or no more than \$100 for new establishments after the effective date of the act. Of further interest to funeral home operators will be the effects of S.B. 129. This act modifies in many aspects the existing legislation pertaining to pre-need funeral merchandise and service contracts pursuant to sales made by holders of permits issued by the State Banking Department authorizing sales under such contracts. S.B. 121 increased the annual filing fee payable to the Banking Commissioner for the operation of perpetual care cemeteries. The fees are to be \$25 for those serving cities with a population of less than 25,000 and \$50

for those serving larger cities. The act also requires the maintenance of perpetual care trust funds and extends other regulations to all perpetual care cemeteries, some of which were exempt by prior legislation.

The drug and pesticides industry also received legislative attention. H.B. 1006 establishes the requirement of registration with the Commissioner of Health for all drug wholesalers and distributors. Drug stores and distributors of drugs must secure permits from the State Board of Pharmacy in compliance with H.B. 552. It should also be noted that all sales of paregoric were placed on the prescription only list by H.B. 162. The distribution and sale of pesticides is regulated by H.B. 64, which makes it unlawful to distribute, sell, or transport any pesticide which has not been registered with the Commissioner of Agriculture, is not in its original unbroken container, and does not bear the markings on the package required by the act, including the list of the ingredients.

S.B. 28 provides for the formation of condominium regimes. The conveyance and recordation of the title of individual apartments are treated by the bill, along with provisions for the allocation of the title to, and the responsibilities for, the common appurtenant elements.

The boiler inspection law was modified by S.B. 35 to allow the period between inspections to be extended to 24 months for stationary boilers and 36 months on unfired boilers upon the approval of the Commissioner of the Bureau of Labor Statistics and the inspection agency having jurisdiction. The approval may be granted only if the conditions of the act relating to continuous supervised water treatment and accurate records of operation are satisfied.

H.B. 446 clarifies some of the employee coverage provisions of the Workmen's Compensation Law. It provides that employees hired to work both within and without the state are to be counted in determining whether the employer is a resident of the state or not. This bill further provides that the employment of labor within the state is the equivalent of appointing the Chairman of the Industrial Accident Board as the employer's agent for service of process for actions under the act.

The fraudulent use of credit cards is made a crime by the amendment of the Penal Code through H.B. 116. Fraudulent use includes the presentation of an expired or revoked card for the purpose of obtaining or paying for goods or services.

H.B. 165 contains a number of modifications to the laws respecting

the employment of children. The age for eligibility under the temporary hardship exemption permit act is now to be 14 rather than 12 years of age. The exemptions from the coverage of child labor laws were reduced by the deletion of those employed for agricultural pursuits other than those employed by members of their family on their own premises for farm labor. A section was added to the law which makes it a crime for the parents, guardian, or one with the custody of a child knowingly to permit the child to accept or continue work in violation of the child employment statutes.

Periods of unemployment occurring for the purpose of attending an established educational institution are disqualified for benefits under the Unemployment Compensation Act by H.B. 204.

S.B. 514 added a new section to the miscellaneous corporation laws which allows a corporation to assume a debt of a parent, subsidiary, or affiliated corporation. To come within the provisions of this section, however, the assuming corporation must own 100 per cent of the stock of the debtor corporation or be wholly owned by the debtor corporation. The assuming corporation is granted a cause of action against the debtor corporation for any amounts actually paid. The act describes its function as one of clarification in that there was possible conflict on this point in existing legislation.

H.B. 172 was adopted as the Automobile Clubs Service Act. The act defines automobile services clubs and provides for their licensing and regulation. To operate as an automobile club a certificate of authority must be secured from the Secretary of State, and the application for the certificate will contain such information as the Secretary may determine. The first year's annual license fee of \$100 must accompany the application. Among the operational regulations specified by the bill are those relating to the registration of salesmen and agents, advertising, and the fact that service contracts including a description of the services of the club must be furnished the Secretary of State and all club members.

S.B. 220 provides for a maximum fee which may be charged by private employment agencies. The fee is set at 40 per cent of the first month's agreed salary or earnings if the salary or earnings is not in excess of \$750 per month. If the amount is in excess of \$750 per month, the fee is to be determined solely by the contract of the parties.

Professions. The license eligibility requirements for chiropodists were amended by H.B. 334. The present requirements include a di-

ploma from a bona fide, reputable school of chiropody in addition to existing requirements. H.B. 333 lists the titles that may be used by licensees of the State Board of Chiropody. Neither of these bills will operate to invalidate valid licenses issued by the Board prior to their adoption.

The Hairdressers and Cosmetologists Act was amended by S.B. 138 to provide for enforcement by the Attorney General or any county or district attorney through injunctive suits with possible penalties of up to \$25 per day of violation. The venue of such suits will be in the county of residence of the person against whom the remedy is sought.

S.B. 85 enacted an extensive revision of the licensing requirements for funeral directors and embalmers. Licensed embalmers must now be graduates of an accredited school of mortuary science in addition to the previous requirements. Apprentices of the two licensed professions must now be registered, and reports of their work must be submitted. The State Board of Morticians, which administers the act, is to be located in Austin.

INSURANCE AND SECURITIES

Insurance. In the field of insurance regulation, the bill receiving the most comment was S.B. 27, which repealed the Robertson Act. The Robertson Act had been on the books essentially unchanged since 1909 and required life insurance companies doing business in the state to maintain at least 75 per cent of their reserves on policies on Texas citizens in Texas securities. The Insurance Code was also amended to allow the insurance of buildings included as security for loans by insurance companies to be written by companies acceptable at the situs of the real estate rather than being limited to companies authorized to write fire insurance in Texas (S.B. 236). H.B. 774, in repealing certain parts of the Insurance and Penal Codes, makes the deposit requirements for new foreign fire insurance companies the same as those for domestic companies. Foreign companies have formerly been required to make five-year deposits with the commission of substantial amounts in excess of the organizational requirements for domestic companies.

A very significant bill in the insurance field was H.B. 938, which provided for the uniform regulation of credit life, health, and accident insurance under the Insurance Commissioner. The bill requires the filing of policies and rates with the Commissioner, provides for

their approval by the Insurance Commission, and requires that policies or certificates be delivered to the borrower. There is a 90-day period from the effective date of the act during which companies may qualify under the new regulation.

S.B. 250 deletes the requirement of including the name and age of each insured, the beneficiary, and the designation of all payment limitations on the face of family group insurance policies. H.B. 708 added Article 3.51.1 to the code which allows a city to pay all or a portion of the premiums on group insurance policies for the benefit of its employees.

H.B. 686 provides that life, health, and accident companies may now invest up to 25 per cent of their capital, surplus, and contingency funds in the stock of one fire and casualty company provided that the investment gives the investing company a majority of the outstanding stock of the fire and casualty company.

S.B. 337 adds the Unclaimed Funds Statute for Life Insurance Companies to the Insurance Code. Under this statute, funds unclaimed for a period of seven years after becoming payable to claimants whose last known address was in the state are to be deposited with the State Treasurer in a special trust fund for that purpose. At the expiration of the seven-year period, the company reports the amount to the Treasurer who publishes the fact, including the name and last known address of the beneficiary, on or before the first day of September of each year. If the amount has not been claimed by December 20, it is forwarded by the company to the State Treasurer for deposit in the fund. Once the money has been transmitted, there is provision for payment of a valid claim by either the State Treasurer or the company. The company will be reimbursed from the fund for such payments. Failure to file the required reports and other violations of the act may subject the offender to fine, imprisonment, and civil penalties.

S.B. 215 enacted a number of amendments to the code in various areas. Article 3.44a is added by the bill as the Standard Non-forfeiture Law. This law in effect requires that non-forfeiture provisions be written into all life insurance contracts written after the effective date of the act other than those excepted by the act. This law also describes the minimum benefits to be included in the non-forfeiture clauses. The payment of dividends under Article 3.11 was made subject to the provisions of 3.44a wherein that article is appropriate to payment or premium reduction guarantees. The bill also amends Article 3.28 of the

code which provides for the valuation of reserve liabilities by the Insurance Commission. This article will govern the applicable method of computation of the reserve liabilities on outstanding life insurance policies and annuity and endowment contracts based on the time of issuance of the policies and contracts. Article 3.30 of the code, which provided for the acceptance of the reserve valuation computation of other states in certain instances, was repealed. Other changes in the code effected by the bill were the result of amending sections 7 and 8 of Article 3.44 to conform with the non-forfeiture provisions of Article 3.44a. Some of the operative aspects of the bill are to be permissive with the companies for a period of 10 years.

Article 3.11 of the code was amended by H.B. 863 to allow insurance companies to pay dividends from earned surplus in substantially the same manner authorized under the Business Corporation Act.

S.B. 233 clarifies the incontestability provisions of the code by changing the wording of Articles 3.44.3 and 3.52.2(c) to provide for incontestability after the policy has been in force during the lifetime of the insured for a period of two years. The exceptions to incontestability provisions remain the same.

H.B. 358 excepts bid bonds issued by surety companies from the requirement of countersignature by a local recording agent posed by Article 21.09 of the code, and H.B. 601 allows the surviving spouse and children to share in the profits of local recording agents under certain circumstances by adding a new section 3a to Article 21.14 of the Code.

S.B. 223 amends and clarifies certain aspects of the Workmen's Compensation Act. Under this bill the liability of a participating employer on contribution and indemnity claims arising from suits filed by his employee against a third party is expressly limited. The employer is not liable to such a third party in the absence of a written agreement to assume liability executed by the employer prior to the injury or death giving rise to the claim. The Employers' Insurance Association is also given limited liability by this law in cases where the injury could have been prevented by safety programs sponsored by the Association. Neither provision of the bill is to operate to lessen or alter the claims of an employee against his employer, its subscriber, or third parties. H.B. 446 also amended the Workmen's Compensation Act as indicated in the preceding section on business regulation. This bill clarified em-

employee coverage provisions and jurisdictional questions relating to employments both within and without the state.

S.B. 419 authorized certain insurance companies to join together to offer health insurance plans to residents of the state 65 years of age or older and their spouses. Chapter 14 (Mutual Assessment) Companies are required to create separate companies for this type of operation, however, and the bill outlines the organization and the operational requirement for them.

S.B. 280 authorizes Chapter 14 companies to amend their charters to provide for perpetual existence if application is made within six months from the effective date of the bill, which was May 9, 1963. The bill also validated certain charters issued under Chapter 14 and Article 1.14 certificates of authority.

There were a number of other bills adopted in the field of insurance that are of technical or limited interest. These include: S.B. 325, relating to the transfer of assets by the State Insurance Liquidator; S.B. 329, authorizing group life insurance coverage for purchasers of land from the Veterans' Land Board; S.B. 414, which amends the Insurance Code and the Business Corporation Act provisions relating to the use of company names that are the same or substantially similar to the name of existing companies; S.B. 417, which redefines net assets of life insurance companies to include certain office equipment; S.B. 476, defining credit guaranty insurance and providing for the maintenance of reserves on such insurance; and H.B. 100, which authorizes state institutions of higher learning operating atomic energy reactors to purchase liability insurance.

Of supplemental interest to insurance carriers in the state is the portion of H.B. 48 which amends the Motor Vehicle Safety-Responsibility Act to provide for an increase in the adequacy of proof of financial responsibility to \$10,000 for the injury or death of one person in one accident, \$20,000 for the injury or death of two or more persons in one accident, and \$5,000 for the injury to or destruction of property of others in one accident.

Securities. H.B. 42 enacted a substantial number of revisions to the Securities Act. The exempt transactions under section 5 of the act are in many instances clarified and are expanded in some areas, including qualified sales under employees benefit plans. The requirements for certified financial statements to be submitted for issue registration are

modified in the case where the fiscal year ended more than 90 days prior to the date of filing the issue. The calculation of the 20 per cent expense maximum for the sale of issues was also modified by the amendment of section 9. The method of filing for dealer registration under section 13 was altered and modified. The passing of an examination to be administered by the State Securities Board is made a condition of registration for dealers, salesmen, and investment advisers, but this condition may be waived by the Board. The penal provisions of the act were amended by the repeal of subsection G of section 14, and the civil liabilities to be encountered from sales in violation of the act were strengthened by a complete rewriting of section 33.

The Uniform Act for Fiduciary Security Transfers was amended by H.B. 115, which allows the guarantee of signatures on transfers to be by the officers of state as well as national banks.

S.B. 388 amends the Uniform Stock Transfer Act to provide for the recognition of joint ownership and survivorship interests in its shares and limits the liability of the corporation for sales made without notice of other interests in the shares.

S.B. 328 provides for the distribution of cash or property held by a corporation in suspense or escrow to the registered owner and furnishes protection from the claims of unregistered owners for distributions made in compliance with the act.

BANKING AND CREDIT

Perhaps the most controversial bill of the session was the Texas Regulatory Loan Act (S.B. 15), popularly termed the "Loan Shark Bill." This law regulates the business of making loans with a cash advancement of \$1,500 or less. To engage in this business the lender must be licensed and regulated under the act. Those financial institutions with lending powers under other legislation are generally exempt from the licensing requirements of the act, but are also excluded from the expanded interest provisions available to licensees. The act is to be administered by the Regulatory Loan Commissioner and his staff under the supervision of the State Finance Commission. A separate license is required for each place of business, and no more than 60 licenses may be issued to any one licensee. Licensees must be residents of Texas, and, in the case of corporations, must be domestic corporations with at least 51 per cent of their stock owned by Texas citizens at all times. Corpo-

rations not meeting these requirements may be issued licenses under charters issued prior to January 8, 1963, and under which they were doing business in Texas. Loans made under the act may be for a maximum term of 37 months and may be insured and secured, although real estate may not be accepted as security. Maximum permissible advance charges on loans vary from \$19 per \$100 on the first \$100 to \$7 per \$100 on the amounts from \$1,000 to \$1,500. The charges are pre-computed and made a part of the principal amount of the note. There is an optional charge schedule that may be employed in lieu of the standard charge computation schedule in the case of short-term loans of \$100 or less. The charges under the optional schedule vary from 20 per cent of the cash advance for loans of \$19 or less for a term of one month or less to an acquisition charge of 10 per cent of the cash advance plus a \$4 per month installment account handling charge for loans of from \$70 to \$100 for a term of from one to six months.

The Banking Code was amended in several instances by H.B. 16. The appointment of Bank Examiners and Assistant Bank Examiners by the Banking Commissioner is now subject to the advice and consent of the Finance Commission, but the statutory limitation on the number of such examiners has been removed. The instructions for the processing of charter applications have been amplified and were modified to provide that the application need not necessarily be on the form supplied by the Commissioner. The period of duration for a state bank may now be designated as perpetual rather than for 50 years, as it was provided formerly. The limitations on the balance owing on real estate lien obligations used as loan security or for investment have been modified so that the indebtedness secured by the lien may not now exceed: (a) 50 per cent of the appraised value, or (b) 70 per cent of the appraised value if 40 per cent of the obligation will be retired by uniform payments within five years, or (c) 80 per cent of the appraised value of qualified residential real estate. The permissible maturities for construction loans were extended to 36 months for industrial or commercial buildings and to 18 months for residential or farm buildings. A new article was added to Chapter Five of the code which provides that one qualified to take acknowledgments of written instruments will not be disqualified from doing so by reason of being an interested party where his interest arises from stock ownership or employment in a state bank which is party to the instrument.

In a significant effort to further implement the policy of eliminating

discrimination between state banks and national banks domiciled in the state, the code now states that national banks are subject to all laws of the state that are applicable to state banks, provided the state has the power to legislate with respect to national banks in the respective areas. Furthermore, state banks are to be subject only to such taxes by the state as they would be if they were operating as national banks. As noted earlier, one effect of this last provision is that state banks will no longer be subject to the state sales or corporate franchise taxes.

The Banking Code was also amended by S.B. 298. This bill added a section specifying that banks will not be required to disclose the amount deposited by a depositor to a third party unless served with appropriate process from a court of competent jurisdiction wherein the bank or the depositor is a necessary or proper party to suit or the disclosure is in response to a subpoena from a legislative investigative committee or a request for examination of records by the Attorney General.

The laws of the state pertaining to the regulation of savings and loan associations were codified by H.B. 29 into a single Savings and Loan Act. The act includes the requirements for the organization and operation of associations and the provisions for its administration and enforcement by the Savings and Loan Commissioner under the Finance Commission.

S.B. 20 amended a number of the statutes relating to state credit unions. The permissible interest rate on loans to members has been changed from 10 per cent per annum to 1 per cent of the unpaid balance of the loan per month. The maximum fee per day for examiners has been raised from \$55 to \$75, and an annual supervision fee based on the amount of the total assets has been added. This fee is determined by a graduated scale that varies from \$15 per year for credit unions with assets of from \$50 to \$100 thousand dollars to \$500 per year for those with assets of \$15 million and over. The by-laws of credit unions must now include the conditions of association qualifying persons for membership as well as residence and occupational conditions. The qualifications, duties, and powers of officers and directors are now more explicitly spelled out, as are the procedure for the declaration and payment of dividends and the procedure for dissolution, conversion, or liquidation. The act also provides for bi-annual meetings of the State Advisory Commission, with travel, board, and lodging expenses to be reimbursable.

EDUCATION

Public Schools. In treating the subject of public education, the Legislature made several revisions in the laws concerning the Teacher Retirement System. A principal one came in allowing an alternative method for calculating the standard annuity under the Teacher Retirement Act, authorized by H.B. 9. Members of the Teacher Retirement System may now choose their best ten years average compensation as the basis for determining their retirement benefits. The ten years chosen need not be consecutive. Previously members had to use their earnings over a prescribed five-year period as the basis. The net effect will be to increase in most instances the amount of retirement benefits payable to members who retire. Another revision in the teacher retirement laws, contained in H.B. 551, makes it possible for an auxiliary employee of a public school who has retired to be re-employed by the schools as a substitute worker for a maximum of 80 days a year, without his forfeiting any retirement benefits from the Teacher Retirement System. An earlier enactment by the previous Legislature had given teachers themselves who retired a similar privilege. An act (H.B. 1001) protects teacher retirement benefits from any legal process—garnishment, attachment, or the like—and exempts these benefits from state or municipal taxation. In particular, retirement benefits paid to beneficiaries are no longer subject to the state inheritance tax.

The State Board of Education received authority in investing the Permanent School Fund to sell or exchange any bonds or other securities of the United States Treasury and to sell any municipal bond held, provided that the board acts within specified restrictions as to acceptable prices (S.B. 505). The purpose of the legislation is to open the way to invest the Permanent School Fund more advantageously.

An additional regulation was placed on school boards by the passage of H.B. 524, which requires that all contracts to be made by a public school board for the purchase of property valued at \$1,000 or more be submitted to competitive bidding. H.B. 886 confers on the State Board of Control and the Texas Education Agency the responsibility for making and enforcing regulations relative to the design, construction, and operation of school buses.

The term "exceptional children" was broadened in H.B. 210 to include emotionally disturbed children, and a pilot study of schooling for emotionally disturbed children was set in motion.

The office of county superintendent of schools was curtailed somewhat by actions of the Legislature. The principal piece of legislation in this regard was S.B. 347, which abolished the office of ex officio county school superintendent in counties with a population of over 16,000 which have only one independent school district. The other two laws, H.B. 54 and S.B. 310, do away with the office in individual counties and transfer the duties of the office to the county judge.

H.B. 331 amended the compulsory attendance law to require children between 7 and 16 to attend school for the entire regular school term as specified in the Penal Code and for a minimum of 165 days of the regular school term, according to the Civil Statutes.

Higher Education. The Governor strongly recommended to the Legislature that a twenty-five-member Committee on Education Beyond the High School be created and be given the task of studying the needs of the state's institutions of higher education, both public and private. The Legislature acted favorably on the Governor's recommendation by passing H.B. 1, which created such a committee. The committee is charged with formulating and recommending a comprehensive, co-ordinated system of programs and facilities for education beyond the high school.

Meanwhile, two additional colleges were made a part of the system of state-supported colleges and universities, raising the total in the system to twenty-two institutions. In the conversion to state ownership accomplished by S.B. 2, San Angelo Junior College becomes Angelo State College, a four-year institution placed under the Board of Regents of the State Teachers Colleges. The Legislature in absorbing Pan American College at Edinburg, already a four-year college, into the system gave it a separate Board of Regents (S.B. 7). Both colleges had previously received state aid as public junior colleges; they had both secured the endorsement of the Texas Commission on Higher Education to become the full responsibility of the state. The two colleges followed the course earlier laid out by Midwestern University and the University of Houston in being public institutions whose support came mainly from local resources but which now have obtained full state sponsorship. In another enlargement of the state's educational function, H.B. 500 directed The University of Texas to establish a Graduate School of Bio-Medical Sciences in Houston.

State-supported and state-aided colleges and universities were granted permission in H.B. 619 to exempt 100 students from Latin

American countries or Canada from tuition fees. The governing board of West Texas State University was authorized to accept gifts to establish the Killgore Research Center on the campus (H.B. 523).

Three name changes were approved in the field of higher education. Texas A. & M. College was renamed (H.B. 755) Texas A & M University, while West Texas State College became, by means of H.B. 12, West Texas State University. The new name given the South Texas Medical School at San Antonio (H.B. 351) is The University of Texas South Texas Medical School.

COUNTIES

Finances and Financial Administration. A wide variety of bills was passed by the Fifty-eighth Legislature, including several acts dealing with county finances. S.B. 416 authorized the Commissioners Court of any county to issue bonds or use the proceeds from bonds to refund the outstanding causeway revenue bonds and to levy and collect an ad valorem tax to pay the interest and principal of such refunding bonds. Under the provisions of S.B. 265, the state may apportion to counties a per capita sum for the support of the offices of criminal district attorney or county attorney performing the duties of district attorney, the apportionment to decrease in rate with the increasing size of the city.

H.B. 10 increases the maximum expenditure for county office buildings and jails in non-county-seat cities from \$150,000 to \$200,000. Counties are authorized by H.B. 909 to employ those having "special skills and experience" to assist Boards of Equalization. S.B. 332 provides for additional assistants to the auditors in two types of counties: in counties of 100,000 to 140,000 population (Potter, Galveston, Lubbock, Wichita) the number of assistants is set at six; in counties of 140,000 to 275,000 population (Travis, Nueces), at ten. H.B. 143 raises to \$300 the amount of emergency purchases a county may make without advertising for competitive bidding.

Functions. Counties over 900,000 population (Harris, Dallas) are authorized by H.B. 991 to issue bonds, including refunding bonds necessary in the future, and to levy taxes for the purpose of acquiring, constructing, and equipping county workhouses and farms for the confinement and utilization of the labor of prisoners. S.B. 251 authorizes the issuance of bonds for the establishment of homes for the needy or indigent.

The Central Education Agency is authorized by H.B. 986 to approve the establishment of county-wide special day schools for the deaf in all counties having a population of 300,000 to 335,000 (El Paso). H.B. 621 provides that Commissioners Courts may contract with private libraries to furnish county free library services in cases where the county free library does not adequately serve areas of the county.

H.B. 144 requires that the Commissioners Court of any county having a population of over 500,000 and not having a reputable medical school (Tarrant County) establish the office of Medical Examiner. The office may be established and maintained optionally by counties with not less than 120,000 population. H.B. 924 makes it unlawful for any person who is a resident of a foreign country or another state to misrepresent his place of residence when applying for medical aid from any state or county hospital.

S.B. 241 authorizes the county judge to appoint a seven-member County Historical Survey Committee for two-year terms. S.B. 208 and S.B. 243, respectively, authorize the Commissioners Courts to appropriate monies for historical markers and monuments and the purchase of historical collections and to acquire museums, buildings, sites, and landmarks through purchase, gift, and eminent domain.

Judicial. H.B. 516 abolishes the office of county attorney in Upshur County and creates the office of criminal district attorney there. Any county having a population of 29,000 and not presently required to use the jury wheel system for selection of jurors may adopt this system if the Commissioners Court determines its necessity.

Other Laws. The election Code revision, S.B. 61, discussed in detail in another section, requires a separate ballot for the various precincts in both primary and general elections when the offices of county commissioner, justice of the peace, constable, or party precinct chairman are being voted on.

The Emergency Interim Public Office Succession Act, H.B. 565, provides that the governing body of the county shall designate three to seven successors in case of the death or disability of members of the governing body if the county has no resolution or ordinance establishing a system of succession.

The new highway speed law, H.B. 50, gives county commissioners the authority to alter the maximum and provide minimum speed limits on any highway, road, or street not part of the State Highway System and not part of an incorporated municipality.

County treasurers no longer have to make annual reports to the Comptroller on the condition of the interest and sinking fund on bonded indebtedness under the provisions of S.B. 103. H.B. 620 clarifies the Texas Liquor Control Act to insure that the intent is clear of a petition for local option election to prohibit or legalize the sale of alcoholic beverages and to insure the remaining local option status quo in an area where either type of election has been held.

MUNICIPALITIES

Annexation. H.B. 13, the so-called "Municipal Annexation Bill," was by far the most important and most discussed law relating to municipalities in Texas. Designed to lend order to the annexing policies of the state's cities, towns, and villages, this law also places severe restrictions on a municipality's powers to annex and portends to be difficult to administer.

Under this act, the unincorporated area contiguous to the corporate limits of a city comprises the extraterritorial jurisdiction of that city. The size of these extraterritorial bands or rings varies according to the population of the municipality: for cities under 5,000 population, the jurisdiction extends for a half-mile from the city's corporate limits; for cities of 5,000 but less than 25,000, one mile; for cities of 25,000 but less than 50,000, two miles; for those 50,000 but less than 100,000, three and one-half miles; and cities in excess of 100,000 population, five miles. The extraterritorial jurisdiction will expand in conformity with annexation by the city. If the area under the extraterritorial jurisdiction of one city overlaps the jurisdiction of one or more other cities, the governing bodies of the respective cities may apportion the land by mutual agreement, or any of the cities may file a claim in the district court of a judicial district in which the largest city laying claim to the area is located.

A city may extend its ordinances governing the development of plats and subdivisions of land to its extraterritorial jurisdiction and may designate any part of the area in the jurisdiction as a tax-exempt industrial district for a (renewable) period up to seven years.

On the other hand, the city may annex territory only within the confines of the extraterritorial jurisdiction and may annex during a calendar year only territory equivalent in size to 10 per cent of the total corporate area of the city on the previous January 1, excepting property

used for a public purpose and areas requested to be annexed by the owners or residents. A city may carry over any unused portion of its annexation allocation, so long as no more than 30 per cent of the corporate total is annexed within any given year.

The governing body of a city must grant its approval for another city to be incorporated within the extraterritorial jurisdiction or for any political subdivision whose purpose is water supply or sanitary sewer service to be created. However, if the city refuses permission, it must, depending on the respective request, either annex the area or furnish water and sewer service within six months. Failure to do so constitutes authorization for the political subdivision to be formed, provided action is completed within eighteen months.

Any city annexing a particular area must within three years of the effective date of the annexation provide "governmental and proprietary services, the standard and scope of which are substantially equivalent" to the standard and scope of services furnished in other areas of the city which have similar characteristics of topography, patterns of land utilization, and population density. Failure to provide these services constitutes authorization for the annexed area to disannex itself from the city. After one year, the city may reannex the area but must provide services within one year.

Retirement. Another area of legislative activity was policemen's and firemen's relief and retirement funds. H.B. 35 established a program of contributions and membership in the Firemen's Relief and Retirement Fund for all cities under 185,000 population. It further provides for the investment of excess funds—ones not needed to pay current benefits—in all cities and for an Investment Advisory Committee to direct the investments of each city. In addition, it provides for the hiring of an actuary in cities with a population of less than 800,000 (all cities except Houston). S.B. 99 establishes that, in cities of 185,000 but less than 195,000 (Austin), the amount paid into the Firemen's Relief and Retirement Fund by the members and by the city shall be $7\frac{1}{2}$ per cent each of the total salary of the firemen and provides for the means of distribution of these funds to terminated employees and for investment of surpluses. S.B. 99 and H.B. 528, which is described below, were made necessary because the original legislation effecting these systems was highly specific. Changes in individual municipal retirement systems require legislative action.

In cities over 800,000 (Houston), the city is required by H.B. 528

to make deductions of 7½ per cent from the monthly salaries of each participating fireman and to contribute one and one-half times this amount to the Firemen's Relief and Retirement Fund, and to hire actuarial services periodically. The act provides for the investment of surplus funds and includes permission to invest in Federal Housing Authority-secured mortgages. In cities of 350,000 to 400,000 (Fort Worth), the transfer of assets and assumption of liabilities of the Firemen's Relief and Retirement Fund by the Municipal Employees' Retirement Fund is provided by S.B. 345.

H.B. 661 amended the state-wide Municipal Retirement System Act in two important respects. First, this bill authorized the distribution of excess interest earnings, after certain reserve account requirements are met, to the individual accounts of members in the Employees Saving Fund and to the accounts of participating municipalities in the Municipality Current Service Accumulation Fund. Previously, this distribution was confined to persons who were already annuitants of the system. The second change expanded the investment authority of the system by permitting the Board of Trustees to invest up to one-third of the system's assets in corporate stocks and bonds. This expansion is similar to ones authorized in recent years for the Permanent University Fund, the Permanent School Fund, and the State Employee's Retirement System, and is designed to obtain a higher rate of interest earnings than was possible on the previous investment base which was restricted to government and municipal bonds. The Municipal Retirement System was also amended by S.B. 101 which allows the accumulation of credits for "creditable service," i.e., prior plus current service, by a person employed by two or more participating municipalities under certain conditions.

H.B. 264 effects changes in the Firemen and Policemen's Pension System of the City of San Antonio to correct an actuarial deficit of \$20 million and to place the system on a sound and stable financial basis for the future. This bill increased contributions from city funds to meet the unfunded liability of present employees by approximately \$45,000 per month, and set up a new scale of member contributions and retirement benefits for those members coming into the system after the effective date of the act.

In cities of 275,000 to 300,000 (El Paso), the board of trustees for the Firemen, Policemen, and Fire Alarm Operators Pension Fund is increased in size by S.B. 315, which also makes participation in the

system compulsory for those aged 18-35 and which increases the amount deductible from monthly salaries to 5 per cent. H.B. 1045 amended the Police Officers' Pension Fund in cities of 900,000 or more (Houston) by making membership compulsory as a condition of employment and by changing the terms of elective members of the Pension Board.

Two other laws affect policemen and firemen. One, S.B. 444, redefines "employment" so as to exclude from the federal old age and survivor's insurance system service in any policeman's position already subject to an existing retirement system in incorporated cities of 250,000 or more (Houston, Dallas, San Antonio, Fort Worth, and El Paso). The purpose of the bill was to expedite placing policemen and firemen in smaller cities under Social Security which they desired to join, while excluding the larger cities already having an adequate retirement system. H.B. 488 governs firemen's and policemen's civil service promotional examinations, following military service, in cities of 10,000 and more population. It provides that a person recalled to active military duty may consider the time spent on duty in meeting the requirement of two years' service in the department prior to promotion; if the person has spent more than one year on active duty, he must undergo a re-training program for 90 days before he is eligible to participate in the promotional examination.

Other Laws. Two bills affect municipal water and sewer systems. H.B. 622 authorizes a city with outstanding waterworks and sewer revenue bonds secured by liens on the revenues of its sewer system and on the waterworks and revenue therefrom to refund these bonds into refunding bonds secured by both waterworks and sewer revenue bonds. Although H.B. 622 is written as a general law, it is designed to affect Wichita Falls and will incidentally affect several smaller cities. S.B. 74 allows cities in counties of 700,000 (Houston, Dallas) to provide orderly water and sewer services to subdivisions lying outside the incorporated area, without penalizing other residents of the cities with the costs, by assessing up to nine-tenths of the cost to the beneficiaries.

H.B. 207 requires that every person, firm, company, corporation, receiver or trustee engaged in the furnishing of water, light, gas, or telephone service make a 6 per cent interest payment per annum on deposits required for furnishing these utility services. This bill could have the effect of causing municipalities and others engaged in supply-

ing utility services to discontinue the practice of deposits if it is found that the accounts receiving interest far exceed the accounts whose deposits are consumed in unpaid bills.

S.B. 303 amends the airport zoning laws to allow a city of 600,000 population (Dallas, Houston) or over in which an airport operated by a defense agency of the federal government or the State of Texas is located to enact zoning laws through a joint zoning board applicable to an area within a five mile radius of the airport.

Under the provisions of S.B. 424, the governing body of any incorporated city or town is authorized to lease any city-owned swimming pool to a private lessee. One effect of this law could be segregated swimming pools.

H.B. 620 clarifies the Texas Liquor Control Act to insure that the intent of a petition for a local option election to prohibit or to legalize the sale of any type of alcoholic beverage is obvious and to insure the remaining local option status quo in an area where either attempt has been made. S.B. 103 repeals the statute requiring treasurers of certain political subdivisions, including cities, having the authority to issue bonds to make annual reports to the Comptroller on the condition of the interest and sinking fund for the indebtedness.

Five other acts which are discussed in full elsewhere in this volume have provisions affecting cities. The occupation tax levied on billiard tables by H.B. 39 can be levied by cities up to \$2.50 per table, or one-half the state tax. The Emergency Interim Public Office Succession Act, embodied in H.B. 565, establishes that cities, towns, and villages not falling under similar local resolutions and ordinances shall designate three to seven successors for the governing officials. H.B. 708, amending the Insurance Code, authorizes any city, town, or village to pay all or any portion of the premiums for certain group insurance contracts covering their employees. S.B. 61, the Election Code Revision, brings municipal elections under the general regulations governing elections in the state. And H.B. 50, which is characterized by its provisions raising highway speed limits, allows municipalities to alter maximum and establish minimum speed limits on highways and streets within their corporate boundaries, including those marked as state highway routes. Orders of the State Highway Commission supersede municipal ordinances, however, and this provision may prove a means of eliminating the "speed traps" set up by many cities.

COURTS, COURT PROCEDURE, AND CRIMINAL LAW

Courts. A significant number of new courts were established by the Fifty-eighth Legislature, the most prominent being the Courts of Civil Appeals for the new Twelfth Judicial District at Tyler and for the new Thirteenth Judicial District at Corpus Christi (H.B. 68). A Court of Domestic Relations was created for Taylor County by H.B. 271, and H.B. 810 created the fourth domestic relations court in Harris County. S.B. 399 amended the act creating the Galveston County Court of Domestic Relations by providing for free transferability of cases between the court and the district courts, a salary increase for the judge, and a change in the term of court. County Courts at Law were established in Smith County (S.B. 432), Travis County (No. 2, S.B. 350), and Dallas County (Nos. 3 and 4, H.B. 367).

H.B. 370 created the 162nd Judicial District and the Criminal Judicial District Number 4 of Dallas County in Dallas County, the 163rd Judicial District in Orange County, the 164th and 165th District Courts in Harris County, the 166th District Court in Bexar County, and the 167th District Court in Travis County. The 147th District Court was created in Travis County by H.B. 429, with the judge of the Travis County Criminal District Court designated to sit as judge of the court.

County Criminal Courts at Law were created in Harris County (No. 4, H.B. 638) and in Tarrant County (No. 3, H.B. 180). H.B. 262 established the County Civil Court at Law of Bexar County. Probate Court Number 2 of Dallas was created by H.B. 410.

Court Procedure. S.B. 124 provides for the transfer of cases from one Court of Civil Appeals to another on good cause, with oral argument to be heard at the place from which the case was transferred. Jurisdiction is granted to the transferee court without regard to the district where the case was originally heard, and all orders, opinions, and decisions are to be rendered from the place where the court regularly sits.

The jurisdiction of the Small Claims Court was increased by H.B. 343 to include concurrent jurisdiction with the Justice of the Peace Court on claims for money not exceeding \$150 and for wages not exceeding \$200. The filing fee for the court is now \$3, and the fee for service of citation is \$2.

The District Attorney of the 53rd Judicial District is to represent

the state in all criminal cases before all District Courts in Travis County (H.B. 359).

There were four bills passed which relate to the selection of jurors by the jury wheel system. H.B. 757 extends the privilege of using the jury wheel to counties not presently required to use it that have a population of 29,000 or more. S.B. 248 provides for the use of typists and clerks paid out of the jury fund for counties with 140,000 population rather than 150,000. The remaining two bills, H.B. 422 and H.B. 806, both purport to amend Article 2094 of the Civil Statutes which relates to the method of selecting names for the jury wheel, but it is impossible to assess the effect of the bills in that they provide inconsistent methods of selection for specified counties.

S.B. 270, which revised the Code of Criminal Procedure, passed both houses of the Legislature but was vetoed by the Governor because the text of the bill received by his office differed from the bill that was passed.

Criminal Law. There were three possessory offenses described by this session. H.B. 229 makes it a felony for one who has been convicted of a felony to have in his possession certain described implements commonly used in the commission of burglary or safecracking. H.B. 58 rewrites the article on theft by bailee and adds a provision for the prima facie proof of intent to convert from the failure to return the property held under written contracts within ten days from the notice of termination of the contract. The bill also describes what will be considered adequate notice under the article. The offense of illegally transporting mercury has been redefined by S.B. 87 to alleviate the problem posed by the unconstitutionality of parts of the former act. The bill makes it a felony to transport illegally more than one pound of mercury and provides for a presumption of illegality for the transportation of same without a written evidence of title. It is a defense to the charge if the accused can show that he is in the business of mining or processing mercury, that the mercury is an integral part of an instrument used by him for a beneficial purpose, or that he is an officer discharging official duties.

S.B. 100 gives game wardens the power to make arrests for the trespass offenses set out in Article 1377b of the Penal Code. H.B. 287 specifically prohibits the willful burning of cotton, cotton seed, motor vehicles, and trailers by the amendment of Article 1318. H.B. 309 makes it an offense to convey or cause to be conveyed willfully any

false information concerning the presence of a bomb or explosive.

H.B. 457 rewrites the worthless check law, and although there is little change in substance, many points are clarified and the procedural aspects are made more general. The fraudulent use of credit cards is made an offense by H.B. 116. Fraudulent use includes the presentation of an expired or revoked card for the purpose of obtaining or paying for goods or services. H.B. 514 establishes the offense of departing from a hotel or motel with intent not to pay for the services. A prima facie presumption of the offense is established by the failure to pay before departure, failing to appear before the clerk and protesting the amount due, and failing to pay the amount due within ten days after notice of the amount due being given.

Other Laws. The operation of an aircraft while a person is intoxicated is made an offense by H.B. 300. The destruction, damage, or removal of historical items or markers is made unlawful by S.B. 328, and S.B. 242 enacts similar legislation covering the damage of archeological sites. The penal prohibition of the operation of billiard tables was repealed by H.B. 39, which subjected the activity to licensing by the city and imposed an occupation tax. The Rule in Shelly's case, the Doctrine of Worthier Title, and the Rule Forbidding a Remainder to the Grantor's Heirs, all old common law rules of property, were abolished by H.B. 105. H.B. 403 removed the disabilities of coverture of a married woman in connection with her contracts and the management and control of her separate property, and the requirement of the joinder of the husband and the privy acknowledgment of the wife on the conveyance of separate lands of the wife were repealed by H.B. 404.

The adoption of children whose parents have had their parental rights terminated is to be at the permission of the court terminating the parental rights, and the order of the court giving the consent is to be a confidential record of the court (H.B. 389). H.B. 230 allows the Probate Court to approve the expenditure of amounts in excess of income of the ward's estate by the guardian for educational and maintenance purposes and provides for the approval of amounts expended for emergencies without prior approval of the court. H.B. 1048 allows the guardian to make funeral arrangements, pay funeral expenses, and pay all other existing debts after the death of the ward and before the closing of the estate subject to the approval of the court. S.B. 161 clarifies the power of a trustee to loan funds of the trust to a beneficiary when the trust instrument expressly authorizes such loans.

S.B. 268 provides for the voluntary retirement of judges at the age of 65 if they have served 18 years on any court of the state, whether they are sitting on a court or not at the time of retirement. The respective judge must have served for at least ten consecutive years on one or more courts to qualify.

ELECTIONS

Some of the most significant pieces of legislation passed during this Legislature are in the area of elections. The first of these bills is S.B. 61, which is an extensive revision of the entire election code. While this bill initiates several new provisions, it basically is intended to reorganize and clarify the existing sections of the old code.

Election officials and their duties are the concern of several of the new provisions. In the past, a person was required to have a poll tax in order to be an election official. This requirement is no longer the case. Automation has also had an effect on election officials, in that they cannot receive compensation for services beyond two hours after the polls close if voting machines are used at the polls. The presiding judge of a poll shall permit a person to vote who has been challenged if the challenged person, in addition to his own oath, submits proof by oath of one well-known resident of the community that he is a qualified voter at said election and said precinct, or the judge shall be subject to a fine not to exceed \$500. One change of some significance in the code concerns the use of the English language at the polls. In the past, only English could be spoken at the polls. Now election officials may use some other language, either directly or indirectly through an interpreter, to the extent of examining, aiding, or giving instructions to a voter who does not comprehend English. If an interpreter is used, he must be a qualified voter and take an appropriate oath. Any poll watcher is entitled to receive a written translation into English of anything spoken in another language upon request.

One new provision is designed to aid the absent-minded voter. Election officials shall no longer disqualify a ballot simply because the voter forgot to detach the stub from the ballot and place it in the stub box. However, the attached stub must have been signed or the ballot will be disqualified. Formerly, litigation over election results could be begun within six months after the election. This period has now been reduced to sixty days. If no court order has been issued within the said sixty days, the ballots of the preceding election shall be destroyed.

The form of the ballot itself is the subject of several of the provisions of this bill. In any election held at the expense of the county, in which party columns appear on the ballot, the columns shall be arranged from left to right, beginning on the left with parties having state organizations nominating candidates at that election, with the party whose candidate for Governor received the highest number of votes being placed in column one. Parties without state organizations constitute the next columns, and they are followed by a column for independent candidates and a column for write-in candidates. Where voting machines are used, the columns shall be arranged horizontally with column one at the top. For any election, general or primary, at which the office of county commissioner, justice of the peace, constable, or precinct chairman of a political party is to be voted on, different ballots for the precincts will be printed, and the voter will receive a ballot with only those individual candidates that concern his precinct. Any office being voted on at an election that is to fill an unexpired term shall have that information printed on the ballot after the office title.

While the voter is affected more or less by all of the provisions of the bill, some directly concern him. For example, no longer can a duly authorized person obtain a poll tax for a qualified voter unless the agent is a husband, wife, father, mother, son, or daughter. The tax collector will be fined if he mails or delivers a poll tax receipt to anyone other than those persons specified above. One of the new provisions of this bill is designed to stop party shifting within an election year. A person who participates in a primary or convention of one party may not participate in the primary or convention of another party within the same election year. Violation of this provision carries a fine of not less than \$100 nor more than \$500. This restriction in the past applied only to the same election day.

Voters who are for or against a proposition that is to be voted on in an election may procure two watchers to be appointed for each election precinct in which the proposition is to be voted on if the prescribed procedure is followed. In the future not all voters will be required to pay the full \$1.50 for the poll tax. Those prescribed individuals will only have to pay \$1.00. Basically, these individuals can be described as handicapped persons or members of the active militia of the state.

The absentee voting process receives considerable attention in this bill. These provisions are mainly designed to clarify the old provisions

and establish a better absentee voting process. One of the most important additions is the extension of the absentee ballot to members of religious or welfare organizations assisting servicemen, civilians employed by the United States government outside the territorial limits of the United States, and their spouses and dependents residing with or accompanying them. To facilitate absentee voters who wish to vote in person, towns and cities with a population of over 4,000 may establish branch offices for absentee voting. In a run-off election, absentee voting shall begin on the tenth day preceding the election date instead of the twentieth day as in the past. The illiterate may now make his mark and have it attested by two witnesses instead of having one of the witnesses sign his name for him.

The provisions dealing with political parties are detailed and numerous.⁵ A significant change dealt with watchers at the polls. Now a watcher for a party may come from any place in the county, so long as he meets the other requirements. This provision will be a big boost to the Republican party in obtaining watchers at the polls. A party that is using the convention system to nominate candidates must hold conventions in not less than twenty counties comprising in the aggregate not less than 20 per cent of the population of the state. No person shall be permitted to hold a proxy at meetings of the county executive committee or county convention of a political party.

Of general interest are these provisions. A corporation that is in the business of lending money may now make loans to the campaigns of candidates for political offices, provided the statutory restrictions and requirements are met and adhered to. It is now unlawful for an employer to prevent an employee from attending a precinct convention of a political party with which he is affiliated or has a right to be affiliated or to impose a penalty upon him for exercising such privilege. It is important to note that the employer is not required to compensate the employee while he is absent in attending such a convention. Finally, all persons waiting to get in to vote at 7 p.m. at any voting precinct shall be allowed to present themselves to vote.

Whereas S.B. 132 is not as broad in scope as S.B. 61, the interest which it has created may be as great. This bill establishes a general registration system for all voters in all elections contingent upon the adoption of an amendment to the Constitution of the State of Texas

⁵ These provisions are primarily concerned with clarification of existing procedures.

abolishing the poll tax as a prerequisite for voting and authorizing the enactment of a general registration law. The new registration system would have a 25 cent fee, and the county tax assessor-collector would be the registrar of voters for each county. As under the poll tax system, registration would be an annual event. Registration would begin immediately upon ratification of the constitutional amendment, and thereafter it would begin on October 1 and proceed through January 31 of the following year. The bill sets out the procedure to be followed in making the transition from the old registration system to the new one with as little confusion as possible. Under this registration statute, the only qualified electors who would not be required to register in order to vote would be those individuals 60 years of age or older who were living in a town or city with a population of less than 10,000. This bill also authorizes a temporary registration system if the pending amendment to the Texas Constitution does not come into being before the Constitution of the United States is amended to abrogate the payment of the poll tax as a prerequisite for voting for federal offices. The temporary registration system is designed also to facilitate the transition from one system to another in meeting the requirements of the United States constitutional amendment, should it be passed.

H.B. 1062 authorizes counties having a population in excess of 1,000,000 (Harris) to have the ballots used on voting machines to be printed in one or more colors of ink; however, the names of all candidates for any one office must be printed in one color. Another bill concerning counties having a population in excess of 1,000,000 is H.B. 1070. H.B. 1070 provides that every independent school district in such a county shall use the voting precincts at the places used for the general election in holding their elections if their average daily attendance meets the statutory requirements.

WATER

S.B. 46 carried into effect an amendment to the Texas Constitution that was adopted at the general election in November, 1962. The purpose of the bill is to facilitate the program of the Texas Water Development Board in its acquisition and development of water storage facilities. It authorizes this board to make contracts with the federal government or any of its agencies to obtain these facilities in federal reservoirs constructed or to be constructed. The Water Development

Board is also authorized to release unappropriated public waters stored in its acquired storage facilities to relieve emergency conditions when they arise and to afford political subdivisions a preferential right to purchase, lease or acquire these facilities. The money received from the sale, transfer or lease of these facilities will be used to pay principal and interest on state bonds issued or to meet contractual obligations incurred by this board.

S.B. 229 provides that, if the governing body of a city finds that a water district located within its jurisdiction is no longer needed or that services furnished or functions performed by such district can best be performed by the city, then the city may abolish such a district with the consent of the district's governing body. After a water district has been abolished, the city shall assume all of its functions and take appropriate steps to retire all outstanding debts of the district.

The Fifty-eighth Legislature, like many of its predecessors, created a number of new, local water districts. These, together with other types of special districts, are listed in Appendix A.

HEALTH AND WELFARE

Health. Mental health was the object of several pieces of significant legislation. Two of the bills in this area provided for the establishment of schools for the mentally retarded. S.B. 50 establishes one school in Corpus Christi, and S.B. 54 authorizes another to be built, without establishing its site. The site will be selected by the Board for Texas State Hospitals and Special Schools after the bill goes into effect. H.B. 210 redefines the term "exceptional children" to include "emotionally disturbed children" and includes the children in the state educational program provided for "emotionally disturbed children." To help these children receive more of the benefits of the programs offered for them, S.B. 305 increases the age limit to 21. The Board for Texas State Hospitals and Special Schools is now authorized to use any personnel and facilities under its control and management to carry out research in regard to mental retardation (H.B. 156) and to make contracts with any public or private agency in the carrying out of research in any area of mental illness (S.B. 383). H.B. 266 also authorizes the board to contract for medical care and treatment of its mentally ill and tubercular patients with any private or public medical organization.

The Texas Mental Health Code was amended this session by H.B.

634. This bill permits a person who is ordered to be hospitalized temporarily for mental treatment to appeal such order to the County Court for a trial de novo within five days after issuance of the committal order. The bill further provides that all hearings on the application for temporary hospitalization shall be closed.

In the way of drug legislation, H.B. 1006 now requires that all wholesalers and distributors of drugs and medicines register with the Commissioner of Health or be subject to a fine, imprisonment, or both. Closely aligned with H.B. 1006 is H.B. 552, which provides for the revocation or suspension of permits to dispense drugs and medicines of any dealer who has sold counterfeit drugs and medicines or sold these items without a prescription. In addition, the bill provides that the Board of Pharmacy shall issue these permits upon receipt of the proper application accompanied by a fee not to exceed \$10.00. The Legislature also established a detailed recording system to be followed by certain prescribed persons in the handling and dispensing of narcotic drugs (H.B. 162). This bill for the first time placed paregoric on the list of narcotic drugs that are to be sold only upon prescription.

H.B. 537 raised the pay of the Board of Vocational Nurse Examiners to \$20 for each day of attendance at board meetings, and a comparable bill, H.B. 538, raised the pay of the Board of Medical Examiners to \$30 a day.

H.B. 64 provides for the labeling, registration, and examination of all insecticides, fungicides and rodenticides to be sold or distributed in Texas.

Another bill of general interest is S.B. 37, which requires all gunshot wounds requiring medical treatment to be reported to the police authorities of the local community where the wound is treated.

For counties with a population of 500,000 or more and not having a reputable medical school (Tarrant County), the County Commissioners Court is required to establish and maintain the office of Medical Examiner (H.B. 144). This system is optional for counties having a population of not less than 120,000.

With the passage of H.B. 418, confidential information received by the State Department of Health, medical organizations, hospitals, or other organizations in the course of medical research for the purpose of reducing morbidity or mortality shall be used only for the purpose of advancing medical research. The individual will be exempt from

legal liability for state prosecution as a result of any information he may give that could be used against him.

Welfare. Child welfare was the major concern of three bills passed by the Fifty-eighth Legislature. H.B. 288 modified the state's program of Aid to Dependent Children to a significant degree. The program is now Aid and Services to Needy Families with Children. The age limit for receiving benefits of this program has been raised from 14 to 16 years of age. The emphasis of the program is on the family unit, not just the child. The amount of benefits to an eligible child is determined in relation to the family status and needs. If the State Department of Public Welfare finds that the funds provided under the program are not being used in the best interests of the child, counseling and guidance service may be provided. If such service is not successful in meeting the best interest of the child, payments may be made to other persons for the benefit of the child. This remedy is available whether the mismanagement of funds is due to design or merely the lack of ability of the mother of the child receiving benefits. H.B. 228 provides that under certain circumstances the State Department of Public Welfare will be responsible for finding fathers who desert their families and fail to support their children. The Legislature through H.B. 389 has sought to clarify adoption procedure and made records of adoption cases confidential where the rights of parents are terminated by an adoption.

Of general interest is H.B. 924, which makes it unlawful for a resident of another state or of a country other than the United States to misrepresent his place of residence when applying for medical aid from county or state hospitals.

S.B. 251 authorizes counties to issue bonds for the establishment of homes for the needy or indigent.

HIGHWAYS AND MOTOR VEHICLES

Motor Vehicles. There were two bills adopted during this session which are of particular interest to motorists on Texas highways. H.B. 50 permits the Highway Department to raise the maximum speed limit on many of the state's highways to 70 miles per hour in the daytime and 65 miles per hour at night. The safety responsibility minimums, and consequently the liability insurance minimums, were raised by

H.B. 48 to \$10,000 for a single personal injury, \$20,000 for injury to two or more persons in one accident, and \$5,000 property damage. This law also makes it an offense to operate or to allow another person to operate a vehicle without proof of financial responsibility. S.B. 52 amended the requirements for the operation of a commercial vehicle by a person other than the owner, his agent, servant, or employee. This law is, of course, of primary importance to the operation of leased commercial vehicles. Whereas the operator had previously been required to have only a copy of the agreement and receipt for its transmittal to the Department of Public Safety, the new legislation allows operation under this method for only five days. After the five-day period, the operator must have a letter of acknowledgment from the department for this type operation. Essentially the same vehicles, such as farm and road vehicles, as were excluded from the older law remain excluded from the extended requirements.

H.B. 861 authorizes the Department of Public Safety to provide for the issuance of temporary permits in lieu of registration for the operation of foreign commercial vehicles at the rate of \$2 per day. H.B. 386 exempts from the requirement for registration trailers used exclusively for the transportation without charge of fertilizer or cotton seed to the owner's farm or between farms. H.B. 615 reduces to 50 per cent the registration fee normally required by weight on vehicles used solely for the transportation of soil conservation equipment or related equipment belonging to the owner of the vehicle. The reduced fee applies to only one vehicle per owner and may be obtained only if the owner files with the department an affidavit of exclusive use and a certification from the County Agricultural Stabilization and Conservation Committee that the owner has been approved as a vendor of conservation services or materials. The requirements for the issue and use of "dealers' tags" were substantially increased and clarified by H.B. 45. The tags may still be used in lieu of registration, but the requirements for their use and the description of the tags are spelled out in much more detail than under the previous legislation.

S.B. 290 provides an alternate method of securing a permit to operate oversize or overweight oil well servicing equipment over the state highways. In addition to other ways of securing this privilege, the operator may now apply to the State Highway Department for such a permit. A related bill, H.B. 613, defines an oil well servicing unit and provides that it shall be lawful to operate those not exceeding 40 feet

in length without regard to other length minimums specified in other legislation.

H.B. 62 amended the carrier regulation legislation by excluding wreckers from the definition of Specialized Motor Carriers and Specialized Equipment, and H.B. 31 included oil field equipment transporters within the definition of Specialized Motor Carriers.

H.B. 369 requires vehicles hauling citrus fruit in bulk or in unenclosed containers to have identification signs showing the name of the owner and the fact that he is a licensed fruit dealer, if such is the case, labeled in three-inch-high letters on both sides and on the rear of the vehicle. The driver of such a vehicle must have papers showing the approximate amount of the fruit being hauled, its owner, and its origin. This requirement does not apply to fruit being hauled by the producer in his own vehicle from the farm to the first place of processing.

S.B. 165 creates the Vehicle Equipment Safety Commission in the Governor's Office and provides that the Governor shall be authorized to declare the adherence of the state to safety compact agreements with other states in relation to vehicle equipment.

Highways. The requirements for notice and of hearing for assessments for street improvements were modified by H.Bs. 314, 315, 316, and 317. Of particular note in the change is that notice to railways must be delivered or mailed to the local agent of the company. Failure to comply with the notice provisions of these acts operates as a defense to collection in some instances.

S.B. 489 makes the cost of relocating utility facilities in the acquisition of right-of-way for the Texas Highway Department a right-of-way cost.

S.B. 213 allows the Highway Department to make partial payments under contracts for highway improvement of up to 95 per cent of the value of the work done and retain only 5 per cent until the entire completion of the work.

Bowie County Road District No. 1A was created by H.B. 970, which provides for the area and powers of the district.

The legislation prohibiting the dumping of refuse near the highway was amended by H.B. 69 to except further refuse treated and processed in accordance with standards and rules to be promulgated by the State Department of Health.

SPECIAL DISTRICTS

Following an established Texas trend, there was considerable legislative activity in the field of special districts. In addition to the creation of a number of special districts, there were four acts which are of general significance in this area.

The establishment of a new type of special district was authorized by H.B. 167. This provides for the creation of rehabilitation districts in a single county or for contiguous counties to furnish education, training, special services, and guidance for handicapped persons. The act defines the powers and organization of such districts and the methods by which they may be established, which include a petition to the Commissioners Court and a majority vote of the voters of the county. The district will have taxing powers, may issue bonds, and may set tuition fees.

Counties that do not have a technical or vocational high school may establish County Industrial Training School Districts with the approval of the resident taxpaying voters in compliance with H.B. 738. These districts may operate schools to provide vocational training and are to be financed locally through tax assessment, tuition, endowments, etc.

Under the provisions of H.B. 717, counties may now establish hospital districts having the power to issue revenue bonds, but not having the power to tax. The bill provides that the governing body of the county may create a County Hospital Authority with the power to establish and operate public hospitals and the power to issue bonds to finance the operation of the authority. However, because of their limited revenue powers, few of these districts will probably be created because the hospital districts created specially by the legislature have the power to tax.

S.B. 103 repealed the law requiring the treasurer of most special districts with the power to issue bonds to report the condition of indebtedness to the Comptroller and amended the act imposing penalties and personal liability on treasurers for the diversion of funds for unauthorized uses.

The Legislature created a number of special districts during the session, including fifteen hospital districts, one road district, one navigation district, four state independent school districts, and nineteen conservation and reclamation districts. The newly created districts are enumerated in Appendix A.

OTHER LAWS

A number of laws and resolutions were passed that do not readily conform to the functional classification used in this review but which nevertheless are of general interest. For example, S.B. 279 accomplished extensive amendment of the legislation dealing with the Texas National Guard. Included in the bill is a revision of the administrative organization of the state military structure and various veterans' service agencies. The act also replaces the Articles of War with the Texas Code of Military Justice, which is in substantial conformity with the Federal Uniform Code of Military Justice.

The Texas Shrimp Conservation Act was adopted as H.B. 109. The act provides for research and study to be conducted by the Game and Fish Commission, now the Parks and Wildlife Department, to promote such conservation and provides detailed regulation for the taking and sale of shrimp in the state.

H.B. 161 amends the legislation dealing with the purchase and taking of sand and gravel from state waters and requires that a permit for taking be obtained from the Parks and Wildlife Department.

H.B. 206 amends the statute allowing production of gas wells in excess of their monthly allowable by providing, among other things, for production up to four times the normal monthly allowable at the discretion of the Railroad Commission during periods of emergency. The former maximum excess had been twice the monthly allowable.

S.B. 388 embodies the Prison-Made Goods Act of 1963. The primary purpose of the act is stated to be the vocational training and rehabilitation of prisoners of the state. The act extends the requirement of the use by state agencies of prison-made goods where appropriate and makes the goods available to local governmental units through direct buying. The bill expands the scope of the program and increases the statutory control of its administration through substantial additions of detailed provisions.

S.B. 266 requires the Texas State Library to make copies of state documents available to depository libraries in the state. Depository libraries, in addition to the Texas State Library itself, are defined to include libraries of state institutions of higher education and other libraries designated as such by the Texas Library and Historical Commission. This law also requires each state agency to furnish the State Library with the number of copies of state documents—in most cases 150—previously required by Article 5442 of the statute.

A program for the acquisition of land by the State Building Commission and for the erection of historical markers by the State Historical Survey Committee in the interest of preserving historical sites is authorized by S.Bs. 239 and 240.

Amendments to mineral leases on certain state lands to provide for an extension of the term of the lease for the period of production rather than for a term of years are authorized by S.B. 196, and H.B. 138 provides for the issuance of permits for prospecting for fissionable materials on state lands upon application to the Commissioner of the General Land Office.

The Texas Legislature took affirmative action on two of three proposals being advanced by the Council of State Governments to curb the authority of the federal government. One of these, H.C.R. 22, was a petition by the Legislature to the Congress of the United States proposing an amendment to the United States Constitution which would prevent the judicial power of the federal government from being extended to any suit or controversy relating to representation in a state legislature. This would negate the 1962 U.S. Supreme Court decision in *Baker v. Carr* in which the federal courts assumed jurisdiction over the apportionment of seats in state legislatures. The second resolution, H.C.R. 21, was a petition to the Congress to change the method of amending the United States Constitution. This proposal would change Article V of the Constitution so that, upon application of two-thirds of the state legislatures, Congress would be required to submit a proposed amendment back to the states for ratification. The effect of this change would be that Congress would have no choice but to resubmit proposed constitutional amendments which have been initiated and approved by 34 state legislatures.

H.B. 597 provides that the owner of land who has been notified that his land is infested with certain prescribed forest pests must take appropriate steps to rid his land of these pests within ten days of notification. If the landowner does not comply with this act, the Texas Forest Service may enter and take the appropriate steps to rid the land of its pests and charge the landowner with the expense of the operation. The recovery of the expense from the landowner shall constitute a legal claim but not a lien on the land. The Texas Forest Service may enter into agreements with private landowners, the federal government, of other public or private agencies in an attempt to control these pests.

Proposed Constitutional Amendments

The Fifty-eighth Legislature approved seven proposed amendments to the Texas Constitution, only one-half the number submitted by the previous regular session of the legislature. Four of these proposed changes will be voted on in November, 1963, and the three others in November of the next year. It is generally considered that proposals to amend the Constitution have a slightly better chance of being adopted if they are submitted at the time of a general election, as will be true in November, 1964, than they do when submitted in an off-year such as 1963.

The requirement that a person have paid his poll tax if he is to qualify as a voter would be repealed by the amendment proposed in S.J.R. 1. The proposal would also empower the legislature to prescribe a system of voter registration. Several attempts have been made by recent legislatures to eliminate the poll tax requirement for voting. Dispensing with the poll tax would be a special gain for lower-income groups in the population. The Legislature enacted a voter registration act, S.B. 132, which will take effect if the proposed repeal is approved by the electorate. The proposed repeal will be voted in November of 1963.

S.J.R. 16, proposing an amendment to Article III, Section 49-b of the Constitution, would authorize an increase in the amount of bonds that may be issued by the Veterans' Land Board to \$350 million. This new ceiling on Veterans' Land Board bonds would be \$150 million higher than the present maximum. The additional funds would be used in loans to veterans to aid them in purchasing land. An enabling act, S.B. 375, containing the same provisions was passed so as to avoid a delay if the voters approve the changes. This proposed amendment will also be submitted to the electorate in November, 1963.

Two proposed amendments concern public welfare programs in the

state. One of them, embodied in S.J.R. 21, would amend Article III, Sections 51a and 51-b-1 of the Constitution. The amendment, if adopted, would repeal the constitutional limit on the amount payable from state funds to individual recipients of old age assistance or of aid to the permanently and totally disabled, but it would retain an overall limit of \$60 million a year on such assistance payments. The election at which this proposed amendment will be voted on will take place in November, 1963.

Medical care for the aged is the subject of the other welfare measure, S.J.R. 10. The change, if approved, would amend Article III, Section 51a of the Constitution to confer on the legislature the power to provide for direct or vendor payments for medical care for persons 65 years of age or over who are not recipients of old age assistance and who are unable to pay for needed medical services. The election at which this proposal is to be submitted to the voters is set for November, 1964.

The financing of public schools is dealt with in S.J.R. 6. It calls for amending Article VII, Section 5 of the Constitution to remove the legislature's present authority to transfer not more than 1 per cent annually of the Permanent School Fund to the Available School Fund. This proposed amendment would, in effect, repeal the so-called "Jester amendment" of 1891 which permitted this transfer of funds. The practice of making this 1 per cent transfer to the Available School Fund was recently revived by the legislature in an effort to balance the state budget. The proposal in S.J.R. 6 would allow the Permanent School Fund to return to its former status as strictly an endowment fund, from which only the interest can be spent. The amendment is to be voted on in November, 1964.

S.J.R. 26 would amend Article XVI, Section 62 of the Constitution by adding a new subsection. The present section authorizes retirement, disability, and death compensation programs for state and county employees. The new subsection would authorize political subdivisions within Jefferson County to provide these benefits to their employees by establishing their own fund or by joining the retirement system of Jefferson County.

Conservation and reclamation districts would be affected by H.J.R. 8 if it is adopted as a constitutional amendment. According to its terms, Article XVI, Section 59 of the Constitution would be amended to establish requirements bearing on the enactment of laws creating con-

servation and reclamation districts. One of the requirements is that prior notice of the intention to introduce a bill to create a district would have to be given in a local newspaper; the Texas Water Commission would also receive prior notice. The election at which this proposal will be submitted to the voters is scheduled for November, 1964.

Bills and Resolutions Vetoed

Two of the twelve bills that the Governor vetoed rank especially high in importance. One was the general appropriation bill, portions of which the Governor struck out, and the other the proposed Code of Criminal Procedure. All but two of the vetoes were announced after the end of the regular session; the two exceptions came in the closing days of the session.

The Governor vetoed selected line-items in the general appropriation bill, H.B. 86, items that called for appropriations of about \$12.4 million. He took this action to save the money for improving the quality of higher education in the state. He did not call a special session of the Legislature immediately, however, to reappropriate the money to higher education. Instead, he left the door open for such a called session later.

The effect of S.B. 270 would have been to adopt a Code of Criminal Procedure revising and re-arranging the statutes concerning the trial of criminal cases. The Governor vetoed this revision and codification on the grounds that the version of S.B. 270 received in his office was not the same version that passed the two houses of the Legislature.

S.B. 289 was a bill that would have changed jurisdiction and venue on appeals from "orders" of the advisory board appointed by the State Department of Public Welfare. The Governor exercised the veto because the bill would have required the advisory board of the State Board of Public Welfare to hold its appeal hearings at the residence of the applicant for a license, rather than allowing the hearings to be held either at the applicant's residence or in Austin, as the statute presently permits. In addition, the bill seemed to assume that the advisory board issued orders, whereas, in fact, it can only make recommendations.

The Legislature gave its approval in H.B. 148 to revised standards for eligibility for unemployment compensation. The Governor blocked the bill with a veto. The bill specified that an applicant for compensation payments should make an oral assertion that he had been seeking work, but it contained no protection against a person who made a false statement to that effect. The term "suitable work" was left undefined. Furthermore, an applicant at the time of registration was to sign "forms" prescribed by the Texas Employment Commission. This condition was held capable of being interpreted as conferring a legislative function on the Employment Commission.

H.B. 92 would have authorized the Commissioners Courts of counties bordering on the Gulf of Mexico to regulate the use of motor vehicles on public beaches, as well as to control the littering of such beaches. The Governor cited two reasons for his veto of the bill. First, the bill authorized Commissioners Courts to appoint persons other than peace officers to enforce regulations adopted by the Commissioners Courts, without requiring that such persons be bonded or take an oath of office. Second, the bill empowered the Commissioners Courts to impose "penalties" of up to \$200 for violations. Using the word "penalties" rather than "fines" implied that the Commissioners Courts could also invoke jail sentences, yet no limit was put on jail sentences.

The exemption of milk-producing dairy farmers and their wives from jury duty was the intention of H.B. 769, a vetoed bill. The Governor's main objection to the bill was that ample provision already exists for a judge to excuse from jury service any dairy farmer on whom such duty would work a hardship.

S.B. 369 was a bill affecting persons who conduct public opinion polls regarding political candidates or prospective candidates. It would have required the filing of information by poll-takers and set out penalties for a polling organization if it maliciously published any erroneous statement or set of figures. The Governor pointed out that the bill was not applicable to all who conduct public opinion polls. He also vetoed it because the bill would "encourage lawsuits by disgruntled candidates" and because it called for such harsh penalties as to result in the elimination of all independent poll-taking.

Under S.B. 361, benefits were to be extended to children of persons who were members of the Texas National Guard or the Air National Guard and who were killed on active duty. Their children would have been exempted from payment of tuition at state-supported colleges.

The Governor vetoed the measure not because of its purpose but because of the manner in which it was drafted. The bill was cast as an amendment to *Vernon's Civil Statutes* rather than to the official session laws proper. Second, the bill attempted to amend a statute by inserting a sentence instead of rewriting the entire section. This procedure ran contrary to the constitutional requirement concerning amendments, that the "section or sections amended . . . be re-enacted and published at length."

A conflict in the statutes would have been created, in the Governor's estimate, if H.B. 1053 had been allowed to become law. The bill called for the election rather than the appointment of the directors of the Upper Guadalupe River Authority. Yet it did not amend the section of the existing statute providing that the board of directors be appointed.

The Angleton Drainage District of Brazoria County, under the terms of H.B. 975, would have been exempted from the necessity of obtaining approval of the Texas Water Commission before spending bond money for improvements. The Governor thought it salutary for the Water Commission to continue to exercise this authority, saying that it would make for more uniformity and thus insure an orderly development of the state's water resources.

H.B. 665 was an effort to forestall the routing of an expressway across the campus of Incarnate Word College in San Antonio. The Governor, when he vetoed it, commented that the bill was passed in the last nine days of the session and that it had not had public notice or public hearing. This lack of opportunity for full public discussion was what led the Governor to reject the bill.

H.B. 654 set forth mortality tables life insurance companies would be entitled to use. It was vetoed simply because its provisions duplicated those of S.B. 215, which the Governor had already signed.

Interim Studies

Interim studies to be made for the succeeding legislature come into existence by three methods—from a regular legislative bill, from a concurrent resolution approved by both houses, or from a simple resolution approved by either house. A concurrent resolution has perhaps a little more authority than a simple resolution because it has gone over two hurdles rather than one.

Twenty-one study assignments were made by the Fifty-eighth Legislature in regular session. (A detailed breakdown of them is included in Appendix B.) Six of these studies were requested by the Texas Legislative Council, the research arm of the legislature. In addition, the Legislative Council was officially designated (S.B. 367) to be the agency in charge of a permanent statutory revision program for the state.

The usual procedure for the other interim studies was to direct that a committee be specially organized for the purpose of carrying on the study. These committees vary in size from five to twenty-five members. Committeemen are drawn from a number of sources. They may be all House members or all Senate members, the appointments in either case being entrusted to the presiding officer; or they may be a combination of Representatives and Senators, as in the joint interim committee. Sometimes members representing the general public are included. If so, their selection is left to the Governor. A fourth group that may be tapped consists of officials from state agencies. Persons not in the government who have a close familiarity with the subject under study furnish yet another possibility. The committees often elect their own chairmen and other officers, although the practice is not uniform on this point. Members are asked to serve on the committee without extra compensation; on the other hand, in many instances they can be reimbursed for their travel expenses in attending meetings.

The arrangement commonly employed was for a committee to be allowed to charge its expenses against the contingent expense fund. A notable exception was the Governor's Committee on Education Beyond the High School, which received its own appropriation of \$125,000 in the general appropriation bill.

Bills and Resolutions Not Enacted

Code of Criminal Procedure. Both in terms of bulk alone and of potential effect, the Code of Criminal Procedure (S.B. 270) stands out among the bills that failed of enactment. This code, which had had the support of the State Bar of Texas, was a victim of the Governor's veto, as explained elsewhere.

Taxation. Although the Legislature gave attention to other of its recommendations, the Commission on State and Local Tax Policy did not gain acceptance of its plan for abandonment of the state ad valorem property tax. The commission's plan was wrapped up in a package of two constitutional amendments (S.J.R. 18, S.J.R. 19) and five supporting bills. When the two joint resolutions could not command the requisite support, there was no need to push for the accompanying legislation. The plan called for the gradual demise of the tax over a five-year period and the substitution of other financing for the state activities now dependent on revenue from the tax. Since the Tax Policy Commission has been given another two years of life and since it set 1967 in its report as the year for abolition of the tax, it is possible that the question may be revived at the next regular session of the legislature.

Another tax reform measure advocated by the Tax Policy Commission, H.B. 222, did not pass. Entitled the Equitable Assessment Act, the bill would have defined the grounds on which a property taxpayer might appeal his assessment to the courts. Under existing law, a property taxpayer has very limited and difficult appeal to the courts from the decision of a Board of Equalization. Other tax reform attempts that stalled in the legislative process were the Appraisal Services Act (H.B. 223) and the Fractional Assessing Act (H.B. 224). The Appraisal Services Act would have placed minor regulations on the practice of a taxing unit's contracting with a firm or persons for appraisal services, and the Fractional Assessing Act would have formally authorized assessments to be made at a fraction of full market value and would have required all assessments in a taxing jurisdiction to be made at the fractional amount set by the local governing body.

Appropriations. The chief gap in the appropriations area, from the

standpoint of the Governor's program of action, occurred when the Legislature in the general appropriation bill, H.B. 86, fell far short of Governor Connally's recommended \$78 million in additional funds for higher education for the 1963-65 biennium.

Regulation of Business. The Legislature declined to enact into law a bill (H.B. 38) that would have placed severe penalties on persons found guilty of slant-hole drilling of oil wells. Instances of slant-hole drilling in East Texas came to light during 1962. The Legislature, nevertheless, did not neglect the situation, for it made available to the Railroad Commission additional money for slant-hole inclination surveys.

State Administration. House members late in the session were not able to find an area of agreement with the Senate for a stiffer conflict of interest statute (H.B. 1018) affecting state officials. Interest in making revisions in the statute arose when newspapers accused a Railroad Commissioner of having been actively engaged in the oil business while serving as Commissioner.

A bill to require that all meetings of governmental bodies be open to the public (H.B. 260) did not secure approval.

Education. Efforts to make two state-owned senior colleges out of two community-owned junior colleges were defeated by the Legislature. Odessa Junior College did not become Permian State College (S.B. 82), and Laredo Junior College was not transformed into Webb State College (S.B. 16). A pair of bills that aimed at raising tuition at state-supported colleges met with the same fate. H.B. 857 called for a doubling of college tuition; H.B. 963, for a 50 per cent increase in it. A bill embodying a step advocated by Governor Connally, the reorganization of the Texas Commission on Higher Education into a six-member Committee on Excellence in Education (H.B. 167), was rejected by the Legislature.

The Legislature also turned down H.B. 164, which would have required public schools to offer a course in economics on the advantages of the capitalist system over communism.

Municipalities. Among the chief rebuffs of cities was a denial of their request for power to levy a limited municipal sales tax. H.B. 63 would have allowed cities to adopt a sales tax of either 0.5 per cent or 1 per cent, following local election to approve the measure.

H.B. 67 was designed to permit cities of over 10,000 population to withhold dues for transmittal to firemen's or policemen's unions and

associations. This dues check-off bill also met defeat. Another bill concerning firemen and policemen that did not become law (H.B. 4) called for an increase in their longevity pay from \$2 to \$5 per month for each year of service, along with repeal of the 25-year limit on eligibility for longevity pay.

An attempt to prohibit the charging of any fee for inspection, launching, or recreational use of a boat on municipal lakes (H.B. 467) also went astray.

Elections. The Legislature again, as in 1960, did not come to agreement on a congressional redistricting plan, though it had several bills before it (H.B. 871, H.B. 522) that realigned the districts and though the 1962 Supreme Court decision in *Baker v. Carr* made court action to force redistricting a more distinct possibility. H.J.R. 30 would have surmounted the difficulty by setting up machinery for a board to redistrict after every census if the legislature did not do so.

Another constitutional amendment not approved for submission would have reduced the minimum voting age from the present 21 years to 18 (H.J.R. 12).

Courts and Court Procedure. A bill introduced in the Legislature but not put through it would have permitted persons 16 years old who had committed a felony to be tried as adults, rather than being classed as juvenile offenders (H.B. 81).

The Legislature. The choosing of a Speaker of the House has been productive of wrangling claims and counterclaims in recent years. Seeking to avoid these, H.J.R. 4 would have amended the Constitution to provide for a special one-day assembly of the members-elect of the House of Representatives in December of every second year to elect the Speaker of the House, a month prior to the meeting of the regular session of the legislature.

Other Subjects. A comprehensive constitutional guarantee of equal rights for women, S.J.R. 2, was bottled up in the House and not put up for a state-wide vote. But legislation enacted, such as H.B. 403 and H.B. 404, did confer special rights on women.

H.B. 510, which would have allowed the pooling of oil and gas production, was blocked.

APPENDIX A

SPECIAL DISTRICTS CREATED BY THE FIFTY-EIGHTH TEXAS LEGISLATURE

Type and Name of District	Location (County)	Bill Number	Total
<i>Hospital</i>			15
Archer County Hospital District	Archer	H.B. 716	
Booker Hospital District	Lipscomb	H.B. 1024	
Brooks County Hospital District	Brooks	H.B. 849	
Caprock Hospital District	Floyd	S.B. 486	
Jasper Hospital District	Jasper	H.B. 377	
Mid Crosby County Hospital District	Crosby	S.B. 422	
North Wheeler County Hospital District	Wheeler	H.B. 330	
Public Hospital District	Jefferson	H.B. 783	
South Wheeler County Hospital District	Wheeler	H.B. 336	
Stonewall County Hospital District	Stonewall	H.B. 295	
Sweeny Hospital District	Brazoria	S.B. 278	
Titus County Hospital District	Titus	H.B. 786	
Tyler County Hospital District	Tyler	H.B. 781	
West Coke County Hospital District	Coke	H.B. 1013	
West Columbia-Brazoria and Damon Hospital District	Brazoria	H.B. 992	

APPENDIX A—Continued

SPECIAL DISTRICTS CREATED BY THE FIFTY-EIGHTH TEXAS LEGISLATURE

Type and Name of District	Location (County)	Bill Number	Total
<i>Navigation (Port)</i>			1
Port Arthur Navigation District	Jefferson	S.B. 469	
<i>Road</i>			1
Bowie County Road District No. 1-A	Bowie	H.B. 970	
<i>School</i>			4
Corpus Christi State School Independent School District	Nueces	S.B. 50	
Lufkin State School Independent School District	Angelina	S.B. 222	
Richmond State School Independent School District	Fort Bend	S.B. 172	
Travis State School Independent School District	Travis	S.B. 152	
<i>Conservation and Reclamation*</i>			19
Aransas County Conservation and Reclamation District	Aransas	S.B. 299	
Bacliff Municipal Utility District	Galveston	S.B. 503	
Bayview Municipal Utility District	Galveston	S.B. 504	
Butterfield Water Control and Improvement District	El Paso	H.B. 274	
City of Hillsboro Water and Sewer Authority	Hill	S.B. 458	

APPENDIX A—Continued

INTERIM STUDIES AUTHORIZED BY THE FIFTY-EIGHTH TEXAS LEGISLATURE

Type and Name of District	Location (County)	Bill Number	Total
Clear Lake City Water Authority	Harris	H.B. 1003	
Dalby Springs Conservation District	Bowie	H.B. 953	
Friendswood Drainage District	Galveston	S.B. 502	
Galveston West Bay Municipal Utility District	Galveston	S.B. 492	
Harris County Water Control and Improvement District—Fondren Road	Harris	S.B. 517	
Lake Dallas Municipal Utility Authority	Denton	H.B. 1008	
Lakeside Water Supply District	Bosque	S.B. 166	
McMullen County Water Control and Improvement District Number Two	McMullen	H.B. 631	
Oak Manor Municipal Utility District	Brazoria	H.B. 1037	
Orange County Drainage District	Orange	H.B. 971	
Pearland Municipal Utility District	Brazoria	H.B. 1030	
Port Mansfield Utility District	Willacy	H.B. 30	
River Plantation Municipal Utility District	Montgomery	H.B. 937	
Sagemont Municipal Utility District	Harris	S.B. 488	
TOTAL			40

* Districts formed for this function regardless of title.

APPENDIX B

INTERIM STUDIES AUTHORIZED BY THE FIFTY-EIGHTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
<i>Taxation and Fiscal Administration</i>		
(1) State and local tax situation	Committee on State and Local Tax Policy	S.C.R. 82
(2) Ways to reduce costs and eliminate waste in state government	Committee on Saving Taxes	H.S.R. 585
<i>State Administration</i>		
(3) Tuberculosis control and treatment in the state	Committee of representatives from state agencies	S.R. 567
(4) Present practices and needed programs for management and preservation of essential state records	Texas Legislative Council	S.C.R. 61
(5) Programs to assist, provide services for, and rehabilitate the blind in Texas	Texas Legislative Council	S.C.R. 70
(6) Feasibility of a plan for pooling state-owned aircraft for use of officials	Texas Legislative Council in cooperation with Texas Research League	H.S.R. 350
(7) The Railroad Commission, with emphasis on possible reassignment of functions	Texas Legislative Council	H.S.R. 381
(8) Means of establishing standard wages for work in public works projects	Study Committee on Prevailing Wages	H.C.R. 8
(9) Awarding of state contracts for public printing and certain other state contracts	Texas Research League	H.S.R. 451
(10) State building engineering and management	Texas Research League	H.S.R. 240
<i>Education</i>		
(11) Needs of institutions of post-high school education in the state	Committee on Education Beyond the High School	H.B. 1
(12) Tests given school children, especially non-academic psychological tests	House Interim Committee	H.S.R. 488

APPENDIX B—Continued

INTERIM STUDIES AUTHORIZED BY THE FIFTY-EIGHTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
(13) Feasibility of making available copies of the film "Operation Teenager"	House Interim Committee	H.S.R. 468
(14) Problems confronting education in Texas	Special House Committee	H.S.R. 111
(15) Feasibility of developing a continuing program of statistical research, training, and study in criminology, penology, juvenile delinquency, and related fields	Administrative staff of Sam Houston State College and Texas Department of Corrections	H.S.R. 469
<i>Water</i>		
(16) Recreational Water safety in the state	House Interim Committee	H.S.R. 515
(17) Expediting planning and policy in the protection and development of water and soil resources	House Interim Committee	H.S.R. 532
(18) The bays and inlets of the state	Joint Interim Committee	S.C.R. 660
<i>Highways and Motor Vehicles</i>		
(19) Mass transportation facilities in metropolitan areas	Texas Legislative Council	H.S.R. 105
<i>Health and Welfare</i>		
(20) Ways of treating, correcting, and rehabilitating sociopathic personalities	Committee of state officials and public representatives	S.B. 477
<i>Investigation</i>		
(21) Activities of governmental departments and institutions	Senate General Investigating Committee	S.R. 25
(22) Any matters concerning state government deemed important	House General Investigating Committee	H.S.R. 93
<i>Other Studies</i>		
(23) All phases of the oil and gas industry in Texas	House Interim Study Committee	H.S.R. 453
(24) Fund-raising in the state, especially professional fund-raising groups	Texas Legislative Council Texas Civil Judicial Council	S.R. 601
(25) Adequacy of system of district courts		H.S.R. 348